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**LEGISLATIVE ANALYST REPORT**

TO:  HONORABLE MEMBERS OF THE BOARD OF SUPERVISORS  
FROM: Jesse Martinez, Legislative Analyst, (415) 554-7782  
DATE: February 19, 2002  
FILE: (individual request)  
SUBJECT: Police Department Personnel Policy and Practice the of  
Certified Bilingual Officers-Part II

DOCUMENTS DEPT.

FEB 20 2002

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**SUMMARY OF REQUESTED ACTION**

A motion (introduced by Supervisor Maxwell) requesting the Office of the Legislative Analyst (OLA) to prepare a report analyzing the current policy and practice of the San Francisco Police Department in recruiting and hiring of bilingual Police Officers. This is a follow up from a previous request by Supervisor Maxwell on how the department is increasing bilingual Officers. This request focuses on: 1) How the Police Department determine its distribution of bilingual officers among the stations throughout the City? 2) Describe the seniority system within the Police Department. How does this effect where an officer is assigned? How does the Police Department prioritize assigning bilingual officers in areas where they are most needed, versus placing officers in stations according to the individual officer's request based on seniority? 3) Are there any policies or practices in place to encourage bilingual proficiency during recruitment and training? Does the police department make it a priority to highlight incentives for certified bilingual officers? 10/26/01

**EXECUTIVE SUMMARY**

In October 2001, OLA completed a report on the policy and practice of the San Francisco Police Department (SFPD) in recruiting and hiring bilingual Police Officers. That report culminated in a description of how the City offers bilingual pay to some officers who speak a second language and the manner it advertises its job openings, utilizing the City's ethnic newspapers. It also noted that the SFPD pays a smaller amount of bilingual pay than most of the jurisdictions surveyed.

This report focuses on the personnel policy and practice of the Bilingual Certified Officer concerning duty assignment and promotion. OLA scrutinized the policy and practice of these specialized officers once hired, trained, and prepared for assignment to Police District Stations.

Officer station transfer and assignment is governed by a Memorandum Of Understanding (MOU) between San Francisco Police Officers' Association (SFOA). This MOU expires June 30, 2003. If the Board chooses to use bilingual proficiency as criteria for officer assignment, it would need to amend the MOU or renegotiate its terms upon its expiration. Thus, the OLA finds that the SFPD's written guidelines of officer personnel general transfers do not include language specialization of bilingual certification as a provision of consideration. As important is the fact that no written procedures on police station assignment is available. The legislative analyst confirmed this aspect with the City's Department of Human Resources.





## BACKGROUND

In October 2001, OLA conducted an analysis of the policy and practice of the Police Department in recruiting and hiring of bilingual Police Officers to assess its efforts. Based on a survey of five (5) U.S. cities having significant percentages of persons who speak a language other than English at home, OLA established that the SFPD performs similarly to other departments in attracting and sustaining bilingual officers. Specifically, SFPD offers "bilingual" pay to certified officers, albeit less than most of the jurisdictions surveyed.<sup>1</sup>

This report is concerned with the management practices of personnel designated as bilingual certified in duty assignment and promotion practices.

## CURRENT LAW AND PRACTICE

Presently, SFPD officer transfer and assignment policy is directed by the SFPOA's MOU of July 1, 2001-June 30, 2003 between the City. Under this agreement, bilingual certification is not an element of consideration in duty assignments or promotions.

There is an exception in that under a United States District Court Consent Decree filed on December 17, 1996 by Judge Charles A. Legge as a result of a lawsuit brought by the Officers For Justice, a minority association. The lawsuit questioned the selection process for the 1996 Captain's promotional examination. The ultimate ruling involved a multifaceted process including the use of "secondary criteria," including, "bilingual skills." Other than this decree's specific use of bilingual certification as a viable element in personnel management of transfers and promotion, it simply is not a considered element for the SFPD.

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<sup>1</sup> "Bilingual Police Services, Part I, Gabriel Cabrera, Legislative Analyst, October 26, 2001..." The Police Department advises that there are currently 2,252 sworn police officers working in San Francisco. Of this amount, 614 officers (or about 27%) speak a second language. However, only 247 of these 614 officers currently receive bilingual pay.<sup>1</sup> The remaining officers have not met the language requirements. Officers who are certified by DHR as having proficiency in other languages may receive bilingual pay when they are called upon to use their skills. "



## POLICY/ISSUES ANALYSIS

The OLA examined personnel practices concerning the following issues.

### **A. How does the Police Department determine its distribution of bilingual police officers among the stations throughout the City?**

According to Police Department personnel, a police recruit (rookie) officer upon graduation from the Police Academy is assigned to the Field Training Program (FTP) and to one of seven police districts. The FTP generally extends over a 17-week period and is designed, according to Lt. Kohane, SFPD, to commence immersing the rookie in department station routines. FTP involves training with a Field Training Coordinator charged with assisting recruits in overcoming any perceived "weakness" identified in the Academy. This would also be the stage to take advantage of any identified "strengths."

An example of a weakness was described as, "having a slight deficit in report writing." Using the same example, a "strength" would be having an aptitude in report writing. It would be during this FTP period that this shortage would be addressed by emphasizing tutoring in report writing.

However, it should be noted that at no time would a proficiency in a non-English language be taken into consideration for district assignment. Bilingual proficiency "might" be considered at "department level" when a recruit is out of training and assigned to a district station.<sup>2</sup>

### **B. How does bilingual proficiency effect where an officer is assigned? How does the Police Department prioritize assigning bilingual officers in areas where they are most needed, versus placing officers in stations according to the individual officer's request based on seniority?**

Upon completion of the Field Training Program, a recruit is assigned to a district station, and required to serve an 18-month probation. Subsequently, and upon completion of this probation, the recruit may request transfer to another station or assignment (e.g., tactical, mounted unit, motorcycles). According to Department representative Mr. Akerson, many officers remain in their initial assignments after the Academy. Ultimately, and at some stage in their career, numerous officers choose to transfer to a specialized unit or another station they may deem more appealing. These ensuing transfer requests are based on the seniority-of-request, which in is not based upon an officer's employment seniority. This transfer policy is part of the MOU between the City and the SF Police Officers' Association and is maintained as a "Transfer List" by the SFPD's personnel office.<sup>3</sup>

Although Bilingual expertise is not necessarily considered in assignment decisions, according to Mr. Akerson, "regardless where an officer is assigned, he/she can be called up to respond to a situation requiring bilingual skills."<sup>4</sup> An example noted was that if Spanish translation was needed in the Mission District, a bilingual certified police officer initially assigned to Taraval Station (in the Sunset) would be called out to assist in the Mission Station matter.

<sup>2</sup> Interview with Lt. Charlie Kohane, Field Training Program, February 5, 2002

<sup>3</sup> Memorandum Of Understanding between the City and County of San Francisco, The Police Commission, The Chief of Police, and, San Francisco Police Officers' Association, July 1, 2001-June 30, 2003

<sup>4</sup> Materials submitted by Police Inspector Akerson on February 4, 2002





**C. Are there any policies or practices in place to encourage bilingual proficiency during recruitment and training? Does the police department make it a priority to highlight incentives for certified bilingual officers?**

According to the SFPD, the only recognized incentive to encourage bilingual proficiency is the \$35.00 biweekly bilingual pay set in 1996<sup>5</sup>. In addition, there are no promotional points specified for bilingual police officers. However, in the materials submitted by the departments' public information office, there is a proposed draft bilingual policy<sup>6</sup>, which interestingly suggests an increase in bilingual pay that "would serve (to) encourage more officers to use their bilingual ability."<sup>7</sup> But for this proposed policy, there does not appear to be a concerted effort in the department to utilize bilingualism as an incentive of any sorts.

**CONCLUSION**

This report responded to three questions, including:

- How does the Police Department prioritize assigning bilingual officers in areas where they are most needed, versus placing police officers in stations according to the individual officer's request based on seniority?

This report has found that the certification of a bilingual Police Officer has no apparent bearing on officer duty assignment and promotion, thus, distribution of these officers and building of incentives for bilingualism is non-existent.

Having no written personnel guidelines explicitly indicating the bilingual certification as an element for consideration, virtually diminishes the importance of this classification within the Police Department.

The OLA finds that the SFPD has designated written guidelines on police officer personnel transfers but does not include the language specialization of bilingual certification as a provision of consideration. Apparently, a police officer's seniority is the primary and dictating consideration in determining station and duty transfers.

<sup>5</sup> See memorandum Of Understanding, City and County of San Francisco and San Francisco Police Officers Association, 1996-2001

<sup>6</sup> See a two-page document, "Does the Bilingual Policy of the San Francisco Police Department reflect the language diversity and needs of San Franciscans?", December 2001

<sup>7</sup> See footnote #7, page 2





## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Adam Van de Water, (415) 554-7788, [adam.vandewater@sfgov.org](mailto:adam.vandewater@sfgov.org), with  
Jesse Martinez, Gabriel Cabrera, Elaine Forbes and Emily Gumper  
DATE: February 25, 2002  
SUBJECT: San Francisco 2000 Census Data

DOCUMENTS DEPT.

FEB 26 2002

### SUMMARY OF REQUESTED ACTION

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A request by the Board introduced by Supervisor Sandoval to 1) analyze 2000 Census data for San Francisco County as a whole as well as by supervisorial district and neighborhood using GIS and, 2) where appropriate, look at trends since the last census in 1990 and compare San Francisco to the State of California, the nation, region, and selected other municipalities.

**NOTE:** This report only presents data for the county as a whole. The OLA does not currently have the capacity to utilize Geographic Information Systems (GIS) in order to analyze the data by supervisorial district or neighborhood. However, the OLA expects to develop this capacity this spring/summer and to produce a follow-up to this report at that time.

### EXECUTIVE SUMMARY

The census collects data in two stages: by means of a short form given to every housing unit requesting information in seven categories (Household relationship, Sex, Age, Hispanic or Latino origin, Race, Tenure, and Vacancy) and by means of a long form given to a random sample of approximately one of six households to estimate information in 25 more detailed categories. All 2000 census information was collected in late 1999 and reflects economic and demographic conditions prior to socioeconomic changes since that time.

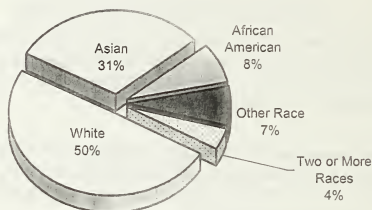
San Francisco has undergone many changes since the last census in 1990. In short, San Francisco is now a more affluent, more highly educated city with less unemployment, fewer vacant housing units, more train and bicycle commuters, more Spanish and Asian language speakers, higher population density, more foreign-born residents and fewer kids. The number of people below the poverty level decreased for all but the senior population, real per capita annual income increased by 30%, the Asian population increased by up to 22%, and the African American population decreased by as much as 23%. This report summarizes selected statistics compiled by the U.S. Census Bureau and presents them by major category with the goal of simplifying the enormity of the existing data. A more detailed appendix is also included for the more ambitious reader.

## POPULATION & RACE

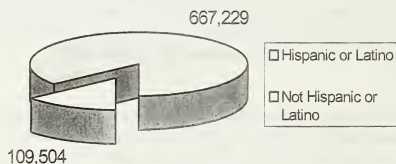
### STATISTICS

- San Francisco has 776,733 residents, making it the 4<sup>th</sup> largest city in the state and the 13<sup>th</sup> largest city in the country.
- San Francisco is approximately 1/2 White, 1/3 Asian, and 1/6 all other races combined (see Figure 1). Approximately 1/7 of the city's population identifies itself as Hispanic or Latino<sup>1</sup>.

**Figure 1: 2000 San Francisco  
Population**  
n=776,733



**Figure 2: Hispanics/Latinos Comprise  
14% of the City's Total Population**



### 1990-2000 TRENDS

<sup>1</sup> "Hispanic or Latino" is not considered a racial category in the U.S. Census since Hispanic or Latino respondents can be of any race even though they share the same ethnicity. This category is therefore presented separately in Figure 2.



- Due in large part to its already high population density, the city added just 52,774 people between 1990 and 2000, a moderate growth rate of 7%, or nearly half the growth rates of the Bay Area (13%), state (14%) and nation (13%).
- The San Francisco Hispanic/Latino population grew by 9%, considerably more slowly than the Bay Area (43%) and state growth rates (43%) but slightly more rapidly than the 7% average of all races in the county taken as a whole.
- The Asian population grew the most significantly, increasing by approximately 20% since 1990 or nearly three times the county average growth rate.
- African Americans left the city in high numbers, losing approximately 20% of their total population in San Francisco (see Table 1 below).

**Table 1: Racial and Ethnic Populations 1990 and 2000**  
(% of Total San Francisco Population, rounded to nearest %)

	1990	2000	% Change 1990-2000
<b>Race</b>			
White	387,783 (54%)	One race = 385,728 (50%) Multiracial = 411,090 (53%)	One race = -1% Multiracial = +6%
Asian	207,255 (29%)	One race = 239,565 (31%) Multiracial = 252,982 (33%)	One race = +16% Multiracial = +22%
African American	79,039 (11%)	One race = 60,515 (8%) Multiracial = 66,566 (9%)	One race = -23% Multiracial = -16%
Some Other Race	49,882 (7%)	One race = 77,818 (10%) Multiracial = 101,161 (13%)	One race = +56% Multiracial = +103%
<b>Ethnicity</b>			
Hispanic/Latino	100,717 (14%)	109,504 (14%)	+9%

Source: U.S. Census Bureau

**TABLE 1 NOTES:** (1) The "Multiracial" population presented above = the population of one race plus the population of that race in combination of one or more other races. For example, 53% of SF respondents identified themselves as white or of multiracial heritage including white.

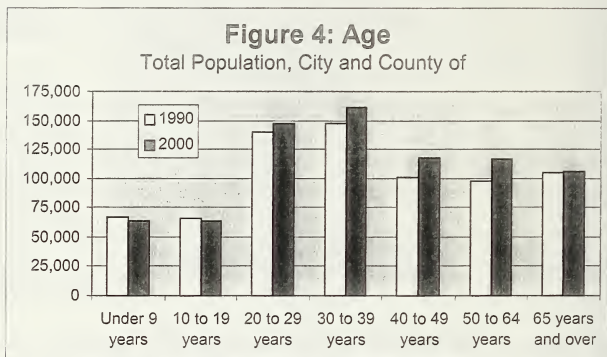
(2) A significant difference between the Census in 1990 and 2000 was the addition of a multiracial category. As multiracial respondents were no longer forced to choose one racial category in 2000 as they did in 1990, direct comparisons between 1990 to 2000 cannot be made.

(3) The 14% of San Francisco respondents who self-identified as Hispanic or Latino, will also be counted in one of the six racial categories (see footnote 1 on the previous page)

## AGE & SEX

### STATISTICS

- Men narrowly outnumber women in the total population, 51% to 49%, while the opposite holds true nationally. However, men between the ages of 30 and 64 outnumber women of the same age range by 20% while women age 65 and over outnumber men by 39%.
- San Francisco has the lowest percentage of residents under the age of 18 (14%, or nearly half the state average of 27%) of all 58 California counties.
- In contrast, San Francisco has the highest percentage of 25-44 year olds (41%, or nine percentage points higher than the state average of 32%) of all 58 counties.



### 1990-2000 TRENDS

- The census data does not support the popular opinion that the San Francisco population has become younger since 1990 as the largest population increases occurred for the population between the ages of 30 and 64. Meanwhile, the population under the age of 20 declined by 4% and the elderly population over the age of 65 remained relatively constant, increasing by less than 1%.

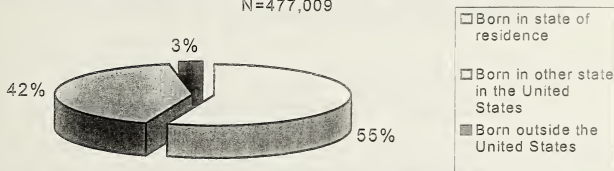
## CITIZENSHIP STATUS

### STATISTICS

- Of San Francisco's total population, 37% were born in a foreign country. This compares to 26% statewide and 11% nationally.
- The majority of San Francisco residents native to the U.S. were born in California (56%), followed by those born in another state in the United States (42%), and those born outside the United States (<3%) (see Figure 5 below).

**Figure 5: San Francisco Native Residents**

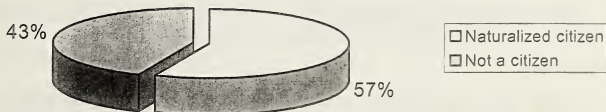
N=477,009



- More foreign-born residents are naturalized citizens in San Francisco (57%) than in the state (40%) or nation (40%).

**Figure 6: San Francisco Foreign-Born Residents**

N=279,967



## 1990-2000 TRENDS

- The number of U.S. native residents in San Francisco remained relatively constant while the number of foreign-born residents increased by 33,933 or 14%.

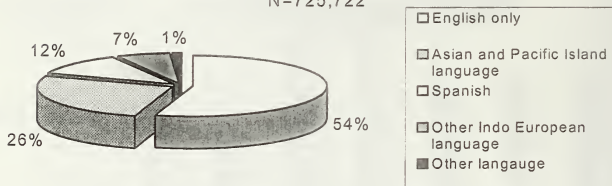
## LANGUAGE

## STATISTICS

- Of the population age 5 and over, the majority of San Franciscans speak only English at home (54%), followed by an Asian and Pacific Island language (26%), Spanish (12%), another Indo-European language (7%), or another language (1%).

Figure 7: Population Age 5 and Over

N=725,722



- Of those who speak a language other than English at home, just over two-thirds reported that they speak English “well” or “very well.”

## 1990-2000 TRENDS

- The number of San Franciscans who speak only English at home declined slightly while almost all other language categories increased from 1990 to 2000. Specifically, the number of individuals who speak an Asian and Pacific Island language increased by 18%, Spanish speakers increased by 12%, and those who speak another Indo-European language increased by 10%.



## INCOME

### STATISTICS

- In 2000, median family income (for a household of four) in San Francisco County was \$63,744, 20% higher than the \$53,099 statewide median family income. Similarly, median household and per capita incomes in San Francisco were 23% and 59% above the State's average respectively.

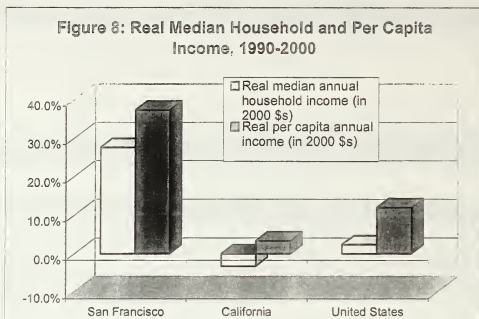
	San Francisco	California
Median family income, 2000	\$ 63,744.00	\$ 53,099.00
Median household income, 2000	\$ 57,259.00	\$ 46,543.00
Per capita income, 2000	\$ 36,328.00	\$ 22,785.00

*Source: U.S. Census Bureau, 2000 Sample Count*

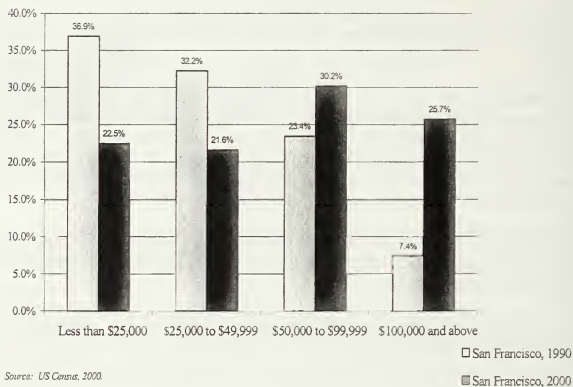
- In 2000, over 50% of San Francisco households earned over \$50,000, and 26% of households earned over \$100,000. This compares to 47% and 17% statewide and 41% and 12% nationwide, respectively.
- In 2000, median earnings for women in San Francisco were 22% less than median earnings for men. This wage gap is significantly lower than the national gap, where women earned 59% less than men at the median. Data on earnings by race is not yet available from the Census Bureau.

### 1990-2000 TRENDS

- Perhaps most strikingly, after adjusting for inflation, per capita income has increased 30% over the last ten years and median household income has increased 40%. This is dramatically higher than the percentage change in real per capita income statewide (3%) and nationally (11%) as well as the observed *decrease* in real median household income at the state level (-3%) and the increase of just 2% at the national level (see Figure 8 below).
- Adjusted for inflation, in 2000 far fewer (percentage) households in San Francisco earned less than \$25,000 annually and a significantly larger (percentage) share of households earned over \$100,000 compared to 1990.
- The number of San Francisco households earning over \$100,000 has more than tripled over the last decade (see Figure 9 below).



**Figure 9: Household Earnings, 1990-2000**

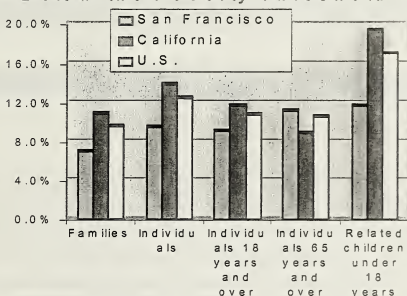


## POVERTY & UNEMPLOYMENT

### STATISTICS

- 7% of San Francisco families have income levels below the poverty threshold,<sup>2</sup> compared with 11% statewide and 10% nationwide. 38% of these are families with female householders and no husbands present.<sup>3</sup>
- 10% of San Francisco residents live below the poverty level, compared with 14% statewide and 13% nationwide.
- 11% of San Francisco residents age 65 years and over live below the poverty level, compared with 9% statewide and 11% nationwide.<sup>4</sup>

Figure 10: 2000 Percentage of Residents Below the Poverty Threshold



- 8% of San Francisco households receive Public Assistance or SSI income, compared with 9% statewide and 6% nationwide.

<sup>2</sup> Poverty thresholds used by the Census Bureau in determining poverty status are not adjusted for cost of living by geographical area. San Francisco's comparatively low percentage of individuals and families living below poverty threshold likely reflects this fact. The Public Policy Institute of California notes that while the Census poverty threshold for a family of four in 2000 is \$17,463, HUD estimates San Francisco fair-market two-bedroom rent at \$16,344 annually ([www.pplic.org/facts/poverty.oct01.pdf](http://www.pplic.org/facts/poverty.oct01.pdf)). For more information on the Census poverty thresholds, see <http://www.census.gov/hhes/www/poverty.html>.

<sup>3</sup> It is not possible to determine from the available data in what percentage of these households unmarried domestic partners are present.

<sup>4</sup> In every other category considered, San Francisco's population has a lower percentage of individuals below the poverty level than California and the nation as a whole.

- 4.5% of San Francisco's workforce population is unemployed, compared with 6.1% statewide and 5.4% nationwide.<sup>5</sup>

### 1990-2000 TRENDS

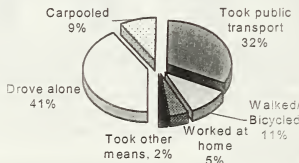
- The percentage of San Francisco residents 65 years and over with poverty status increased from 9.9 to 11.2 percent from 1990 to 2000. The percentage of the San Francisco population with poverty status declined for every other category examined. The percentage of poor seniors increased between 1990 and 2000 at the statewide and national levels as well.
- The number of poor families with children under 5 years of age decreased by nearly 75% from 1990 to 2000.
- Unemployment decreased more in San Francisco (from 6.2% to 4.5%) between 1990 and 2000 than in California (from 6.5% to 6.1%) or in the nation as a whole (from 6.2% to 5.4%).
- The percent of San Francisco households receiving Public Assistance or SSI income decreased from 10% in 1990 to 8% in 2000. This trend was found at the statewide and national levels as well.

## TRANSPORTATION

### STATISTICS

- San Francisco has a much higher percentage of commuters using public transit (32%) than the state (5%) or nation (5%) and a much lower percentage of commuters driving alone (41% compared to 72% and 76% respectively). Interestingly, despite regional efforts to promote carpool lanes, vanpooling and casual carpool, San Francisco had a smaller percentage of commuters carpooling (9%) than either the state (14%) or the nation (11%).
- The 32-minute average travel time to work was four minutes longer than the state average of 28 minutes and six minutes longer than the national average of 26 minutes.

**Figure 11: Transportation to Work**  
Population 16yrs and Over, Yr 2000  
n=419,601



<sup>5</sup> This figure may now be very different as 2000 census data is based on information collected in the fall of 1999.

## 1990-2000 TRENDS

- San Franciscans added an average of three minutes to their commute to work each day, an increase of 7.6%.
- Carpooling (-11%), ferry (-19%) and streetcar (-12%) ridership, walking (-2%), and motorcycling (-3%) all declined as modes of choice from 1990 to 2000 while every other category increased, most notably heavy rail (+102%) and bicycling (+108%) whose riderships more than doubled. San Franciscans also turned to taxicab commuting (+62%), BART (+21%), working at home (+39%), and driving alone (+17%).
- The data supports the theory that either workers are venturing further from their homes to find employment or that they are simply taking longer to get there as commute times under 20 minutes declined 6% to 15% while those over 40 minutes increased between 28% and 54%.

## EDUCATION

### STATISTICS

- 23% of San Franciscans are enrolled in school, compared with 31% statewide and 28% nationwide.<sup>6</sup> Those pursuing higher education make up a much larger percentage of total enrollees in San Francisco (45%) than in California (25%) or in the nation as a whole (21%).
- The portion of the San Francisco population having attained at least bachelor degrees (48%) is nearly twice that in the nation as whole (25%) or California (28%).<sup>7</sup> San Francisco County has the highest percentage of bachelor's degree recipients in the state.
- The percentage of San Franciscans who have not completed the 9<sup>th</sup> grade (8%) exceeds the nationwide percentage (7%) but is exceeded by the statewide percentage (11%).

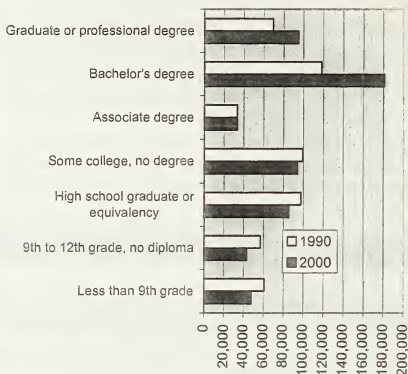
### TRENDS 1990-2000

- There was a marked increase in educational attainment in San Francisco between 1990 and 2000. The number of people having attained at least bachelor's degrees increased by 47%, while the number not having attained high school degrees decreased by 23%.
- The increase from 1990 to 2000 in the percentage of San Francisco residents having attained at least bachelor's degrees (from 35% to 48%) exceeded increases at the statewide (from 23% to 28%) and national levels (from 20% to 25%).

<sup>6</sup> All school enrollment statistics are for the 3 years and older population.

<sup>7</sup> All educational attainment statistics are for the 25 years and older population.

**Figure 12: Highest Education Attained**  
Population: Adults 25 years and older



## HOUSEHOLDS & FAMILIES

### STATISTICS

- 44% of San Francisco's 329,700 households are family households, compared with 69% statewide and 68% in the U.S. 32% of households are married-family households, compared with 51% in California and 52% in the United States as a whole.

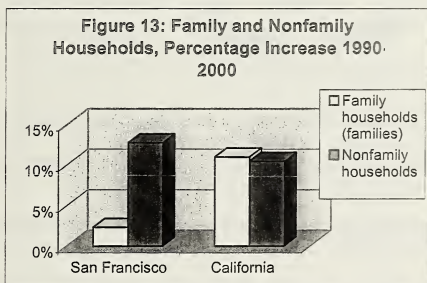
**Figure 13: Family Households Occupy  
44% of All Households in San Francisco**



- Children under 18 years are present in 17% of all family households in San Francisco, while children are present in 36% of California family households and 33% of U.S. family households.
- 56% of San Francisco's households are non-family households, compared with 31% statewide and 32% nationwide. 39% of all San Francisco householders live alone, compared with 24% statewide and 26% nationwide.
- The average household size in San Francisco is 2.30 persons, compared with 2.87 for California and 2.59 for the country; the average family size in San Francisco is 3.22 persons, compared with 3.43 for California and 3.14 for the country.

### TRENDS 1990-2000

- Between 1990 and 2000, while the city gained 52,774 residents, the number of households grew by 24,116. The average number of persons per household increased slightly from 2.29 to 2.30 persons. Average family household size also increased very slightly, from 3.21 to 3.22 persons per household.



- The number of households comprised of single persons or two or more unrelated persons living together increased slightly relative to family households over the past decade. The percentage of households occupied by families decreased from 46% of all households to 44%.
- The rate of increase of non-family households in San Francisco and San Diego (both increased 13%) was higher than that in the state (10%) and Los Angeles (4%).
- The number of family households in San Francisco increased by only 2%, while the number of family households in California and San Diego increased by 11% and 5%, respectively.

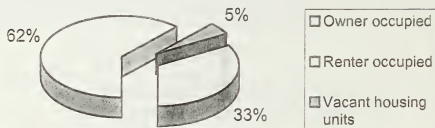


## HOUSING

### STATISTICS

- Nearly two-thirds of San Francisco's 329,700 occupied housing units are renter-occupied. The percentage of owner-occupied units in San Francisco is far lower than that in California (60%) or the country as a whole (66%).

**Figure 14: Renters Occupy 62% of San Francisco Housing Units, 2000**



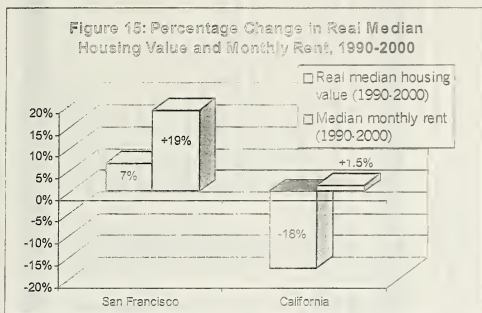
- San Francisco has 16,827 total vacant housing units, or 5% of total housing units. The homeowner vacancy rate is 0.8%, compared with 1.4% in the state and 1.7% in the U.S. The rental vacancy rate in San Francisco is 2.5%, compared with 3.7% in California and 6.8% in the U.S.
- In 2000, the median value of an owner occupied housing unit was \$427,938 and the median monthly rental contract was \$977.
- 30% of renters in San Francisco paid more than 1/3 of their income on rent in 2000.
- The City's "seasonal, recreational, or occasional-use" units (together labeled "vacation homes") more than doubled from 1990 to 2000, increasing 149% at the same time similar units statewide increased just 21%.

### TRENDS 1990-2000

- The median value of a single-family home in San Francisco increased \$129,038 or 7% in real terms (adjusting 1990 values into 2000 dollars for comparison) while the median value statewide *decreased* 18% from 1990 to 2000.



- Median monthly rent in San Francisco increased \$364 or 19% in real terms from 1990 to 2000 while real median rent statewide increased just 1.5%



- The number of households using 35% or more of their income for rent decreased by 19% as real median household income increased 27.5% over the same time period.
- Vacancy rates decreased appreciably as a result of the improved economy. San Francisco's vacant housing units decreased 26% from 1990 to 2000 while the number of vacancies in the state decreased by 11%. Homeowner and rental vacancy rates dropped 53% and 56%, respectively (compared with 30% and 37% statewide).
- The number of housing structures with 1 to 4 units grew by 26% while the number of housing structures with 5 to 9 units decreased by 5% and structures with 10 or more units increased 9%.
- The number of units available for rent between \$250 and \$749 decreased by over 50% while the number offered at \$1,000+ per month increased by 308%.
- The total number of homeowners in California increased by 13% while San Francisco (9%), San Diego (12%), and Los Angeles (2%) trailed slightly behind.
- Increases in the total number of renters in San Francisco (7%) mirrored those of the State (8%) even though the total percentage of householders who rent was much higher in San Francisco (62%) than the state (43%).

## TOTAL POPULATION - City and County of SF

	2000		1990		% Change	2000 State		2000 National	
	Total	% of Total	Total	% of Total		Total	% of Total	Total	% of Total
Total Population	776,733	100.0%	723,559	100%	7.3%	33,871,648	100%	281,421,906	100%
Male	394,828	50.8%	362,497	50.1%	8.9%	138,053,563	49.1%	1,380,563,563	49.1%
Female	381,905	49.2%	361,062	49.9%	5.7%	143,368,343	50.9%	1,433,368,343	50.9%

## RACE

(Population: Total)

	2000		1990		% Change	2000 State		2000 National	
	Total	% of Total	Total	% of Total		Total	% of Total	Total	% of Total
Population of one race:	743,478	95.7%	--	--	--	32,284,002	95.3%	274,595,678	97.6%
Population of two or more races:	33,255	4.3%	--	--	--	1,607,646	4.7%	6,826,228	2.4%
White -- low side	385,728	0.0%	387,783	53.6%	-0.5%	20,170,059	59.5%	211,460,626	75.1%
White -- high side	411,090	52.9%	--	--	6.0%	--	0.0%	216,930,975	77.1%
Asian -- low side	239,565	30.8%	207,255	28.6%	15.6%	3,697,513	10.9%	10,242,998	3.6%
Asian -- high side	252,982	32.6%	--	--	22.1%	--	0.0%	11,898,828	4.2%
Black or African American -- low side	60,515	7.8%	79,039	10.9%	-23.4%	2,263,882	6.7%	34,658,190	12.3%
Black or African American -- high side	66,566	8.6%	--	--	-15.8%	--	0.0%	36,419,434	12.9%
Some other race -- low side	50,368	6.5%	42,805	5.9%	17.7%	5,682,241	16.8%	15,369,073	5.5%
Some other race -- high side	65,442	8.4%	--	--	52.9%	--	0.0%	18,521,486	6.6%
Native Hawaiian/Pacific Islander -- low side	3,844	0.5%	3,321	0.5%	6.2%	116,961	0.3%	398,835	0.1%
Native Hawaiian/Pacific Islander -- high side	6,039	0.8%	--	--	66.8%	--	0.0%	874,414	0.3%
American Indian/Alaska Native -- low side	3,458	0.4%	3,456	0.5%	0.1%	333,346	1.0%	2,475,956	0.9%
American Indian/Alaska Native -- high side	8,332	1.1%	--	--	146.9%	--	0.0%	4,119,301	1.5%

1. For the first time since Congress created the census in 1790, respondents to Census 2000 were given the option to indicate multi-racial heritages by self-identifying with one of 57 possible combinations of the following racial categories: "White", "Black or African American", "American Indian or Alaska Native", "Asian", "Native Hawaiian and Other Pacific Islander", or "Some Other Race". The fact that 4.28% of San Franciscans identified themselves with one of these multi-racial categories (compared with 2.4% nationally) makes exact comparisons between 1990 and 2000 census data impossible. Instead, only "high side" and "low side" comparisons can be made. For example, low side calculations compare those people who marked White in 1990 with those who marked White in 2000. High side calculations compare those who marked White in 1990 with both those who marked White in 2000 and those who marked White and one or more other race(s) in 2000. Therefore, a multi-racial person who marked White and Black or African American on the 2000 Census would be counted twice in the high side counts: once under White and again under Black and African American.

2. Large discrepancies between high and low side estimates of race indicate a high degree of multi-racial coupling. For example, the large difference between high side and low side estimates of American Indian and Alaska Natives indicates that fully 59.5% of American Indians and Alaska Natives have multi-racial heritages.

## HISPANIC or LATINO

Hispanic or Latino  
Not Hispanic or Latino

2000		1990		% Change	2000 State		(Population: Total)	
Total	% of Total	Total	% of Total	1990-2000	Total	% of Total	2000 National	% of Total
109,504	14.1%	100,717	13.9%	8.7%	10,966,556	32.4	35,305,818	12.5%
667,229	85.9%	623,242	86.1%	7.1%	22,905,092	67.6	246,116,088	87.5%

1. "Hispanic or Latino" is not considered a racial category in the U.S. Census as Hispanic or Latino respondents can be of any race even though they share the same ethnicity. This category is therefore presented separately from the six racial categories described above.

## AGE (Population: Total)

	2000		1990		% Change
	Total	% of Total	Total	% of Total	1990-2000
Total Population:	776,733	100%	723,959	100%	7.3%
Male					
Under 9 years	394,828	8.2%	366,883	8.8%	7.6%
10 to 19 years	32,305	8.3%	32,318	0.0%	0.0%
20 to 29 years	32,837	8.3%	33,707	9.2%	-2.6%
30 to 39 years	74,677	18.9%	71,431	19.5%	4.5%
40 to 49 years	88,886	22.5%	79,399	21.6%	11.9%
50 to 64 years	63,425	16.1%	53,714	14.6%	18.1%
65 years and over	58,323	14.8%	47,934	13.1%	21.7%
Female					
Under 9 years	44,375	11.2%	48,380	13.2%	-8.3%
10 to 19 years	381,905	8.1%	357,076	9.8%	-7.0%
20 to 29 years	30,892	8.2%	34,843	8.9%	-11.3%
30 to 39 years	31,310	19.1%	31,795	8.9%	-1.5%
40 to 49 years	72,770	19.1%	68,816	19.3%	5.7%
50 to 64 years	72,467	19.0%	68,059	19.1%	6.5%
65 years and over	54,574	14.3%	47,045	13.2%	16.0%
	58,156	15.2%	49,518	13.9%	17.4%
	61,736	16.2%	57,000	16.0%	8.3%

NOTE: All Data is US Census Sample Data for SF County, CA, and US (Estimates are Averages of High and Low 90% CI for all and exclude the population living in institutions, college dormitories and other group quarters)

## GEOGRAPHY

	2000		1990		1990-2000		2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total	
Land area, 2000 (square miles)	47	--	47	--	--	155,959	--	--	--	
Persons per square mile, 2000	16,526.20	--	15,403.4	--	7.3%	217.2	--	--	--	

## EDUCATION

### School Enrollment by Level of School (Population: 3Yrs & Older)

	2000	1990	1990-2000	2000 State	2000 National				
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total
Total:	737,919	100%	702,289	100%	5.1%	31,606,207	100.0%	262,440,868	100.0%
Enrolled in school:	165,740	22.5%	179,009	25.5%	-7.4%	9,718,398	30.7%	72,722,615	27.7%
Enrolled in nursery school, preschool	8,323	1.1%	8,749	1.2%	-4.9%	475,264	1.5%	4,313,639	1.6%
Enrolled in kindergarten	5,879	0.8%	--	--	--	543,635	1.7%	4,036,072	1.5%
Enrolled in grade 1 to grade 8	50,783	6.9%	--	--	--	4,195,427	13.3%	32,916,120	12.5%
Enrolled in high school (9 to 12)	26,461	3.6%	--	--	--	2,061,183	6.5%	15,853,806	6.0%
college or graduate school	74,294	10.1%	--	--	--	2,442,889	7.7%	15,602,978	5.9%
Not enrolled in school	572,179	77.5%	523,280	74.5%	9.3%	21,887,809	69.3%	189,718,253	72.3%

### Educational Attainment

#### (Population: 25Yrs & Older)

	2000		1990		1990-2000		2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total	
Population 25 years and over	579,959	100%	536,015	100%	8.2%	20,742,859	--	177,562,899	--	
Less than 9th grade	47,692	8.2%	60,736	11.3%	-21.5%	2,220,857	10.7%	12,328,762	6.9%	
9th to 12th grade, no diploma	43,157	7.4%	57,098	10.7%	-24.4%	2,346,559	11.3%	20,384,795	11.5%	
High school graduate (including equivalent)	85,655	14.8%	97,583	18.2%	-12.2%	4,262,593	20.5%	52,427,005	29.5%	
Some college, no degree	94,058	16.2%	99,482	18.6%	-5.5%	4,675,437	22.5%	36,456,924	20.5%	
Associate degree	33,586	5.8%	33,281	6.2%	0.9%	1,534,821	7.4%	11,493,115	6.5%	
Bachelor's degree	180,968	31.2%	118,360	22.1%	52.9%	3,664,975	17.7%	28,563,252	16.1%	
Graduate or professional degree	94,863	16.4%	69,475	13.0%	36.5%	2,037,617	9.8%	15,929,046	9.0%	
Percent high school graduate or higher	--	84.3%	--	78.0%	--	--	78.0%	--	81.6%	
Percent bachelor's degree or higher	--	47.6%	--	35.0%	--	--	27.5%	--	25.1%	

**LANGUAGE/CITIZENSHIP**

Language Spoken at Home

(Population: SVs &amp; Older)

	2000		1990		1990-2000	2000 State		2000 National	
	Age 5 and over	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total
Total		100%	--	100%	--	30,598,432	100%	254,746,174	100%
Spanish		11.7%	75,933	10.5%	11.9%	7,849,723	25.7%	26,745,067	10.5%
Speak English "well" or "Very well"		69.4%	--	--	--	3,931,357	50.1%	12,463,516	46.6%
English Alone		54.4%	396,596	54.6%	-0.4%	18,537,369	60.6%	209,860,377	82.4%
Other Indo-European		11.9%	42,882	5.9%	10.1%	1,273,516	4.2%	9,479,670	3.7%
Speak English "well" or "Very well"		80.9%	--	--	--	402,838	31.6%	3,103,665	32.7%
Asian and Pacific Island Language		26.3%	161,969	22.3%	17.8%	2,700,969	8.8%	6,864,461	2.7%
Speak English "well" or "Very well"		64.1%	--	--	--	1,372,946	50.8%	3,395,653	49.5%
Speak other languages		1.1%	12,153	1.7%	-36.7%	236,855	0.8%	1,796,599	0.7%
Speak English "well" or "Very well"		87.5%	--	--	--	69,929	29.5%	529,998	29.5%
Total Speak English "well" or "Very well"		68.4%	--	--	--	5,777,070	47.9%	19,492,832	7.7%

**Place of Birth by Citizenship Status**

(Population: 77)

	2000		1990			2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total
Total:	756,976	100%	723,959	100%	5%	33,051,894	100%	273,643,274	100%
Native:	477,009	63.0%	477,925	66.0%	-0.19%	24,486,558	74.09%	243,177,052	88.9%
Born in state of residence	265,365	35.1%	253,205	35.0%	4.80%	16,724,157	50.60%	163,540,802	59.8%
Born in other state in the United States:	198,950	26.3%	212,131	29.3%	-6.21%	7,403,302	22.40%	76,218,605	27.9%
Northeast	67,198	8.9%	62,540	8.6%	7.45%	1,577,856	4.77%	17,985,821	6.6%
Midwest	55,360	7.3%	59,866	8.3%	-7.53%	2,372,673	7.18%	21,616,166	7.9%
South	47,959	6.3%	58,861	8.1%	-18.55%	2,037,917	6.17%	24,597,166	9.0%
Born outside the United States:	28,443	3.8%	30,844	4.3%	-7.82%	1,414,856	4.28%	12,019,051	4.4%
West	12,664	1.7%	12,589	1.7%	0.83%	359,099	1.09%	3,417,645	1.2%
Puerto Rico	1,511	0.2%	1,615	0.2%	-6.44%	38,207	0.12%	1,293,975	0.5%
U.S. Island Areas	318	0.0%	1,123	0.2%	-71.68%	38,420	0.12%	155,184	0.1%
Born abroad of American parent(s)	10,865	1.4%	9,851	1.4%	10.29%	282,472	0.85%	1,968,486	0.7%
Foreign born:	279,967	37.0%	246,034	34.0%	13.79%	8,565,336	25.91%	30,466,222	11.1%
Naturalized citizen	158,193	20.9%	--	--	--	3,383,214	10.24%	12,232,935	4.5%
Not a citizen	121,774	16.1%	--	--	--	5,182,122	15.68%	18,233,287	6.7%

## Year of Entry by Citizenship Status

(Population: Foreign-Born)

	2000		1990		1990-2000 % Change	2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total		Estimate	% of Total	Estimate	% of Total
Total:	279,967	—	246,034	100%	—	8,566,336	100%	30,466,222	100.0%
Year of entry 1990 to 2000:	109,509	39.1%	—	—	—	3,276,573	38.25%	13,265,452	43.6%
Naturalized citizen	29,369	26.8%	—	—	—	420,300	4.91%	1,682,358	5.5%
Not a citizen	80,140	73.2%	—	—	—	2,856,273	33.35%	11,603,094	38.1%
Year of entry 1980 to 1989:	81,768	29.2%	116,292	48.1%	N/A	2,695,887	31.47%	8,002,870	26.3%
Naturalized citizen	53,937	65.9%	—	—	—	1,130,112	13.19%	3,693,641	11.9%
Not a citizen	27,851	34.1%	—	—	—	1,565,775	18.28%	4,369,229	14.3%
Year of entry before 1980:	88,670	31.7%	127,742	51.9%	N/A	2,592,876	30.27%	9,177,900	30.1%
Naturalized citizen	74,867	84.5%	—	—	—	1,832,802	21.40%	6,916,936	22.7%
Not a citizen	13,783	15.5%	—	—	—	760,074	8.87%	2,260,964	7.4%

## TRANSPORTATION

## Means of Transportation to Work

(Population: Workers 16yrs &amp; Over)

	2000		1990		1990-2000 % Change	2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total		Estimate	% of Total	Estimate	% of Total
Total:	419,601	100%	382,309	100%	9.8%	14,780,167	—	127,448,586	100.0%
Car, truck, or van:	211,401	50.4%	191,112	50.0%	10.6%	12,761,613	86.3%	111,542,547	87.5%
Drove alone	172,401	41.1%	147,187	38.5%	17.1%	10,704,777	72.4%	97,243,457	76.3%
Carpooled	39,000	9.3%	43,925	11.5%	-11.2%	2,056,836	13.9%	14,299,090	11.2%
Public transportation:	134,873	32.1%	128,160	33.5%	5.2%	795,050	5.4%	6,592,685	5.2%
Bus or trolley bus	95,190	22.7%	93,377	24.4%	1.9%	—	—	—	—
Streetcar or trolley car	10,715	2.6%	12,210	3.2%	-12.2%	—	—	—	—
Subway or elevated	23,802	5.7%	19,707	5.2%	20.8%	—	—	—	—
Railroad	2,997	0.7%	1,484	0.4%	102.0%	—	—	—	—
Ferryboat	71	0.0%	88	0.0%	-19.3%	—	—	—	—
Taxicab	2,098	0.5%	1,294	0.3%	62.1%	—	—	—	—
Motorcycle	4,390	1.0%	4,540	1.2%	-3.3%	—	—	—	—
Bicycle	7,564	1.8%	3,634	1.0%	108.1%	—	—	—	—
Walked	36,823	8.8%	37,611	9.8%	-2.1%	404,366	2.7%	3,417,546	2.7%
Other means	4,374	1.0%	2,773	0.7%	57.7%	278,136	1.9%	1,820,578	1.4%
Worked at home	20,176	4.8%	14,479	3.8%	39.3%	541,002	3.7%	4,075,230	3.2%



Travel Time to Work	(Population: Workers 16yrs & Over)									
Total:	2000		1990		1990-2000		2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total	
Did not work at home:	419,601	100%	382,309	100%	9.8%	14,780,167	100%	127,448,586	100%	
Less than 10 minutes	399,425	95.2%	367,830	96.2%	8.6%	14,239,165	96.3%	123,373,356	96.8%	
	22,159	5.3%	25,931	7.0%	-14.5%	1,715,576	11.6%	18,994,570	14.9%	
	88,181	21.0%	93,808	25.5%	-6.0%	4,137,535	28.0%	37,620,809	29.5%	
	20 to 29 minutes	93,249	22.2%	85,705	22.3%	8.8%	2,888,386	19.6%	25,282,533	19.8%
	30 to 39 minutes	88,411	21.1%	83,796	22.8%	5.5%	2,408,550	16.3%	19,303,076	15.1%
	40 to 44 minutes	22,048	5.3%	16,559	4.5%	33.1%	560,614	3.8%	4,186,065	3.3%
	45 to 59 minutes	45,518	10.8%	35,532	9.7%	28.1%	1,158,499	7.8%	9,028,584	7.1%
	60 to 89 minutes	32,424	7.7%	21,008	5.7%	54.3%	965,923	6.5%	6,459,666	5.1%
	90 or more minutes	7,435	1.8%	5,491	1.5%	35.4%	394,082	2.7%	2,550,053	2.0%
	Worked at home	20,176	4.8%	14,479	3.8%	39.3%	541,002	3.7%	4,075,230	3.2%
Estimated Average Commute Time (mins)	32		29		7.6%	28		26		

INCOME

Household Income	(Population: Households)									
Total:	2000		1990		1990-2000		2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total	
Less than \$10,000	325,605	100%	305,984	100%	6.4%	11,384,071	100%	104,733,569	100%	
\$10,000 to \$14,999	28,518	8.8%	44,109	14.4%	-35.3%	934,043	8.2%	10,022,803	9.6%	
\$15,000 to \$24,999	29,933	9.2%	22,659	7.4%	-36.0%	686,701	6.1%	6,995,026	6.7%	
\$25,000 to \$34,999	28,293	8.7%	46,178	15.1%	-35.2%	1,408,654	12.4%	13,994,472	13.4%	
\$35,000 to \$49,999	41,998	12.9%	52,686	17.2%	-20.3%	1,298,720	11.4%	13,491,042	12.9%	
\$50,000 to \$74,999	59,692	18.3%	50,536	16.5%	18.1%	1,687,972	14.8%	17,032,000	16.3%	
\$75,000 to \$99,999	38,403	11.8%	21,165	6.9%	81.4%	2,134,525	18.8%	20,017,509	19.1%	
\$100,000 to \$149,999	43,323	13.3%	13,788	4.5%	214.2%	1,272,441	11.2%	10,479,853	10.0%	
\$150,000 or more	40,233	12.4%	8,937	2.9%	350.2%	1,182,132	10.4%	8,125,132	7.8%	
Median annual household income (in 2000 \$)	\$ 57,259		\$ 44,893		27.5%	\$ 46,543	-3%	\$ 41,349	2%	
Median real family income (dollars)	\$ 63,744		\$ 54,496		17.0%	\$ 53,099		\$ 49,507		
Median real nonfamily income (dollars)	\$ 50,186		\$ 36,401		37.9%	\$ 31,529		\$ 25,425		
Real Per Capita Income (in 2000 \$s)	(Population: Total)									
Per capita annual income (in 2000 \$s)	2000		1990		1990-2000		2000 State		2000 National	
	Estimate	% Change	Estimate	% Change	% Change	Estimate	% Change	Estimate	% Change	
	\$36,328		\$26,461		37.3%	\$ 22,785		\$ 21,690		
							3.4%		12.0%	

## Real Median Earnings (in 2000 \$s)

(Population: 16yrs &amp; Older w/ earnings)

	2000 Estimate	1990 Estimate	1990-2000 % Change	2000 State Estimate	2000 National Estimate
Total (dollars)	\$34,307	--	--	\$ 24,964	\$ 24,105
Median -- Males with earnings (dollars)	\$37,249	--	--	\$ 29,922	\$ 30,132
Median -- Females with earnings (dollars)	\$30,561	--	--	\$ 20,524	\$ 18,978

## Earnings by Sex (in 2000 \$s)

	2000		2000 State		2000 National	
	Male Estimate	Female Estimate	Male Estimate	Female Estimate	Male Estimate	Female Estimate
Total	265,156	222,333	9,604,465	8,046,893	79,660,327	4,588,943
\$1 to \$2,499 or loss	9,768	14,020	539,590	752,147	9.3%	4,840,159
\$2,500 to \$4,999	6,569	8,683	364,658	490,330	6.1%	3,062,580
\$5,000 to \$7,499	10,461	9,329	447,802	568,267	7.1%	3,160,834
\$7,500 to \$9,999	7,990	8,757	320,929	418,566	5.2%	2,391,929
\$10,000 to \$12,499	10,297	12,203	628,764	677,950	8.4%	3,962,448
\$12,500 to \$14,999	6,096	6,525	338,656	314,029	3.9%	2,341,154
\$15,000 to \$17,499	9,478	9,968	481,648	428,207	5.0%	3,709,932
\$17,500 to \$19,999	7,447	6,340	322,913	292,036	3.6%	2,661,290
\$20,000 to \$29,999	10,223	9,558	433,133	390,859	4.9%	4,131,513
\$22,500 to \$24,999	7,445	6,443	322,739	301,415	3.7%	2,920,823
\$25,000 to \$29,999	16,901	16,470	608,616	577,730	7.2%	6,411,205
\$30,000 to \$34,999	17,870	17,662	667,762	574,976	7.1%	6,630,626
\$35,000 to \$39,999	17,720	14,644	517,880	439,902	5.5%	5,213,878
\$40,000 to \$44,999	17,562	14,462	577,100	411,227	5.1%	5,064,369
\$45,000 to \$49,999	10,851	11,537	372,966	263,045	3.3%	3,538,863
\$50,000 to \$54,999	15,000	9,994	451,630	281,615	3.5%	3,856,808
\$55,000 to \$64,999	17,160	13,168	565,677	306,542	3.8%	4,465,636
\$65,000 to \$74,999	12,851	9,109	381,499	178,783	2.2%	2,928,565
\$75,000 to \$99,999	21,378	10,310	531,445	197,374	2.5%	3,748,752
\$100,000 or more	32,031	13,151	729,058	181,893	2.3%	4,588,943



## Per Capita Earnings by Race

(Population: Total)

	2000		1990		1990-2000		2000 State		2000 National	
Per capita income in 1989:	Estimate	% of Total	Estimate	% of Total	% Change		Estimate	% of Total	Estimate	% of Total
White	NA		\$ 26,222				NA		NA	
Black	NA		\$ 11,829				NA		NA	
American Indian, Eskimo, or Aleut	NA		\$ 11,485				NA		NA	
Asian or Pacific Islander	NA		\$ 12,665				NA		NA	
Other race	NA		\$ 10,174				NA		NA	

## Social Security Income

(Population: Households)

	2000		1990		1990-2000		2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total		% Change	Estimate	% of Total	Estimate	% of Total
Total:	325,605	100%	305,984	100%		6.4%	11,384,071	100%	104,733,569	26.25%
With Social Security income	69,579	21.4%	72,745	23.8%		-4.4%	2,594,417	22.8%	27,495,868	26.25%

## POVERTY

## Number Below Poverty

(Population: ?)

	2000		1990		1990-2000	2000 State		2000 National	
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total
Families	10,071	100%	13,999	100%	-28.1%	846,612	100%	6,828,238	100%
With related children under 18 years	6,377	63.3%	10,035	71.7%	-36.5%	699,302	82.6%	5,294,913	77.5%
With related children under 5 years only	1,270	12.6%	4,833	34.5%	-73.7%	128,828	15.2%	1,118,853	16.4%
Families with female householder, no husband	4,647	100%	6,274	100%	-25.9%	383,364	100%	3,583,652	100.0%
With related children under 18 years	3,823	82.3%	5,225	83.3%	-26.8%	348,196	90.8%	3,245,410	90.6%
With related children under 5 years only	515	11.1%	2,530	40.3%	-79.6%	65,614	17.1%	669,814	19.2%
Individuals	71,949	100%	90,019	100%	-20.1%	4,587,211	100%	34,077,004	100.0%
18 years and over	58,477	81.3%	68,791	76.4%	-15.0%	2,793,738	60.9%	21,697,602	63.7%
65 years and over	11,454	15.9%	10,151	11.3%	12.9%	305,286	6.7%	3,516,913	10.3%
Related children under 18 years	12,864	17.9%	20,580	22.9%	-37.5%	1,742,653	38.0%	11,960,918	35.1%
Related children 5 to 17 years	9,130	12.7%	14,478	16.1%	-36.9%	1,218,093	26.6%	8,309,498	24.4%
Unrelated individuals 15 years and over	39,029	54.2%	--	--	--	1,215,415	26.5%	10,190,104	29.9%

	2000			1990			1990-2000			2000 State			2000 National		
	Estimate	% of Total	Estimate	Estimate	% of Total	% Change	Estimate	% of Total		Estimate	% of Total	Estimate	% of Total		
Percent families below poverty level	7.0%	--	9.7%	--	--	--	10.9%	--	--	9.6%	--	--	--	--	--
Percent individuals below poverty level:	9.5%	--	12.7%	--	--	--	13.9%	--	--	12.5%	--	--	--	--	--
18 years and over	9.1%	--	11.5%	--	--	--	11.7%	--	--	10.8%	--	--	--	--	--
65 years and over	11.2%	--	9.9%	--	--	--	8.9%	--	--	10.6%	--	--	--	--	--
Related children under 18 years	11.7%	--	18.2%	--	--	--	19.4%	--	--	17.0%	--	--	--	--	--
Related children under 5 years	12.0%	--	17.7%	--	--	--	21.7%	--	--	19.7%	--	--	--	--	--
Related children 5 to 17 years	11.5%	--	18.4%	--	--	--	18.6%	--	--	16.1%	--	--	--	--	--
Unrelated individuals 15 years and over	13.9%	--	--	--	--	--	21.3%	--	--	21.7%	--	--	--	--	--
<b>Public Assistance Income (includes SSI) (Population: Households)</b>															
Total:	2000		1990				2000 State			2000 National					
With public assistance income (includes SS	325,605	100%	305,984	100%	100%	6.4%	11,384,071	100%		104,733,569	100%				
	27,314	8.4%	31,897	10.4%	10.4%	-14.4%	1,002,642	8.8%		6,736,193	6.4%				
<b>Unemployment (Population: 16 and older)</b>															
	2000		1990				2000 State			2000 National					
% unemployed	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total	Estimate	% of Total	Estimate	% of Total		
	20,130	4.5%	25,855	6.2%	-22.1%	985,604	6.1%	7,397,626	5.4%						
<b>BUSINESS</b>															
	2000		1990				2000 State			2000 National					
	Estimate	% of Total	Estimate	% of Total	% Change	Estimate	% of Total	Estimate	% of Total	Estimate	% of Total	Estimate	% of Total		
Private nonfarm establishments, 1999	31,202	--	--	--	--	784,935									
Private nonfarm employment, 1999	536,012	--	--	--	3.10%	12,356,363									
Nonemployer establishments, 1998	64,427	--	--	--	--	1,971,388									
Manufacturers shipments, 1997 (\$1000)	3,978,945	--	--	--	--	379,612,443									
Retail sales, 1997 (\$1000)	6,795,006	--	--	--	--	263,118,346									
Retail sales per capita, 1997	\$9,170	--	--	--	--	\$8,167									
Minority-owned firms, percent of total, 1997	35.70%	--	--	--	--	28.80%									
Women-owned firms, percent of total, 1997	28.10%	--	--	--	--	27.30%									
3 units authorized by building permits, 2000	2,766	--	--	--	--	145,575									
Federal funds and grants, 2000 (\$1000)	6,157,969	--	--	--	--	175,750,893									
ent employment - full-time equivalent, 1997	40,951	--	--	--	--	1,194,169									
Visitors to San Francisco (millions), 2000	17.3	--	--	--	--										

	Total population		San Francisco % Change		State		State		State	
	Yr 1990	Yr 2000	1990-2000	7%	1990	2000	% change	1990	2000	% change
Total population	723,959	776,733			29,760,021	33,871,648	14%			
<b>HOUSEHOLDS BY TYPE</b>										
Total households	305,584	329,700	24,116	8%	10,381,206	11,502,870	11%			
Family households (2000)	141,906	145,186	44,00%	2%	7,142,270	7,925,477	11%			
Married-couple families	100,462	32.90%	104,310	31.60%	4%	5,470,896	5,877,967	7%		
Nonfamily households (2000)	163,678	53.60%	184,514	56.00%	13%	3,238,936	3,577,393	10%		
Householder living alone	120,111	39.30%	127,376	38.60%	6%	2,429,202	2,703,174	11%		
Householder 65 years and over	35,542	11.60%	32,257	9.80%	-9%	1,941,266	897,274	-31%		
Persons living in households	699,330	756,976		8%	29,008,161			2.8	2.9	4%
Persons per household	2.29	2.3		0%						

**OCCUPANCY AND TENURE**

Total housing units	328,471	346,527								
Occupied housing units	305,584	329,700		8%	10,381,206	11,502,870	11%			
Owner occupied	105,497	115,391		9%	5,773,943	6,546,334	13%			
Renter occupied	200,087	214,309		7%	4,607,263	4,956,536	8%			
Vacant housing units	22,887	16,827		-26%	801,676	711,679	-11%			
For seasonal, recreational, or occasional use	1,509	3,762		149%	195,385	236,857	21%			
Homeowner vacancy rate	1.7	0.8		-53%	2	1.4	-30%			
Rental vacancy rate	5.7	2.5		-56%	5.9	3.7	-37%			
Persons per owner-occupied unit	2.66	2.73		3%	2.84	na				
Persons per renter-occupied unit	2.09	2.06		-1%	2.74	na				

**UNITS IN STRUCTURE**

	Yr 1990	Yr 2000	San Francisco % Change 1990-2000	State 1990	State 2000	State % Change
1-unit detached	55,494	62,455	13%	6,119,265	na	
1-unit attached	49,656	51,143	3%	811,664	na	
2 to 4 units	78,889	87,122	10%	966,355	na	
5 to 9 units	36,981	35,267	-5%	705,704	na	
10 or more units	100,988	110,193	9%	1,899,934	na	
Mobile home, trailer, or other	6,463	347	-95%	679,940	na	

**VALUE**

Specified owner-occupied housing units	72,643	80,747	11%	4,690,264	na	
Less than \$50,000	2,235	2,350	5%	119,023	na	
\$50,000 to \$99,999	1,302	897	-31%	636,643	na	
\$100,000 to \$149,999	2,668	822	-69%	812,098	na	
\$150,000 to \$199,999	5,489	2,200	-60%	851,540	na	
\$200,000 to \$299,999	24,950	10,322	-59%	1,150,992	na	
\$300,000 or more	35,999	64,158	78%	1,119,968	na	

Median (dollars)	298,900	427,938	43%	195,500	na	
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**CONTRACT RENT**

Renter-occupied housing units/ cash rent	194,434	208,706	7%	4,400,105	na	
Less than \$250 to \$499	66,606	31,003	-53%	1,715,355	na	
\$500 to \$749	65,672	32,846	-50%	1,692,456	na	
\$750 to \$999	38,086	42,538	12%	668,470	na	
\$1,000 or more	24,070	98,247	308%	323,824	na	
Median (dollars)	613	977	59%	561	na	

**GROSS RENT AS A % OF HOUSEHOLD INC**

	Yr 1990	Yr 2000	San Francisco % Change 1990-2000	State 1990	State 2000	State % change
Less than 19.9 percent	51,972	74,185	43%	1,071,909 na		
20.0 to 24.9 percent	28,413	29,920	5%	640,232 na		
25.0 to 29.9 percent	25,807	24,237	-6%	566,354 na		
30.9 to 34.9 percent	17,860	18,425	3%	420,772 na		
35.0 percent or more	67,325	54,611	-19%	1,657,803 na		
Not computed	8,228	7,328	-11%	196,317 na		

**RACE AND HISPANIC ORIGIN OF HOUSEHOLDER**

Occupied housing units	305,584	329,700	8%	10,381,206	11,502,870	11%
White	198,214	200,228	1%	7,871,635	7,777,625	1%
Black	30,477	24,280	-20%	751,563	793,479	6%
American Indian, Eskimo, or Aleut	1,331	1,334	0%	78,848	101,539	29%
Asian or Pacific Islander	63,607	79,375	25%	777,913	1,136,676	46%
Other race	11,955	24,477	105%	901,247	1,683,541	87%
Hispanic origin (of any race)	30,955	31,803	3%	1,836,989	2,566,688	40%

**COMPARATIVE HOUSEHOLD AND HOUSING CHARACTERISTICS**

	1990-2000 Household Type: Families	1990-2000 Household Type: Non-families	1990-2000 % change of that owns	1990-2000 % change of that rents
SAN FRANCISCO	2%	13%	9%	7%
LOS ANGELES	5%	4%	2%	6%
SAN DIEGO	8%	13%	12%	8%
CALIFORNIA	11%	10%	13%	8%





## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Jesse Martinez  
DATE: March 21, 2002  
FILE NO: 020037  
SUBJECT: MEETING SCHEDULES- CITY COUNCILS (file# 020037)

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### SUMMARY OF REQUEST

A motion introduced by Supervisor Matt Gonzalez and approved by the Board of Supervisors directed the Office of the Legislative Analyst (OLA) to report frequency and schedule of full City Council meetings and committees, number of members, and number of committees for the 20 largest cities in California excluding San Francisco.

### BACKGROUND: OLA SURVEY OF City Councils and Committees

The OLA examined 20 City Councils in California to ascertain Council-meeting schedules, length of meetings, and meeting frequency. This report gathered data concerning the number of City Council members in each designated city for proportional analysis. This report focuses on the 20 largest California cities to establish average number of council members, standard meetings days, and typical meeting lengths. It is a complement to an earlier one, which concentrated on 57 California Boards of Supervisors<sup>1</sup>, where similar elements are analyzed to determine comparative comprehension.

<sup>1</sup> Legislative Analyst Report, "Meeting Schedules," November 13, 2001, File No. 011548



## ANALYSIS & FINDINGS

*Meeting Days*—80% (16 cities) of the Cities assessed meet on Tuesday and only three, Santa Ana, Huntington Beach, and, San Bernardino, meet on Monday.

*Meeting Times*—60% hold their meetings from 8:00 am and 5:00 pm. 9 cities meeting from 1:00 and 5:00pm. 15% meet on Tuesday mornings between 8:30 and 10 am.

Most (63%) meet on a weekly basis (see Attachment 1: Meeting Schedules).

*Meeting Frequency*—90% meet once weekly while two city councils, Los Angeles and San Diego, meet three times and twice weekly, respectively (see Appendix I).

The city council sampling illustrated that the average meeting lasted 3 hours with the range from 2 to 5 hours (see Chart).

*Correlation Analysis*—a basic study was performed which examined the relationship between a council meeting length (dependent variable) in hours toward (independent variables) day of the week the meeting took place, frequency of meetings, and, time the meetings were held. This preliminary study suggests that there may be an association between the meeting length and day of a meeting. In addition, Accountemp, wholly owned by Robert Half Corporation, recently released a study indicating a strong relationship between work efficiency and day of the week. They specifically cited Monday as the worst day for work efficiency. The initiated may want to review Appendix II for a brief explanation of OLA's study.

*Committees*—Fifty five percent (11) of the cities had a council committee structure, requiring council members, containing three to eight council members. The remaining 45 percent or 9 cities comprised of boards and commissions with two to seven members. That is, these structures did not necessarily require city council membership but were largely staffed by council appointees, much akin to San Francisco's Commissions. These advisory bodies averaged four members and 40% met monthly and 45% held bi-monthly meetings. These non-council body's averaged 2 hours in length and met at varied times: 25% convened any time during the day almost at an ad hoc basis, 25% assembled from 8:00am and 12:00pm, 35% met at 1:00p and 5:00p, while 15% scheduled meetings after 6:00pm.

Council meeting preparation by council staff, including legislative aids and city clerks, included standard groundwork: reviewing council packets as the principal manner for meeting preparation. These packets largely consisted of the customary materials: staff reports on related budget, City Attorney support, and in the cases of Los Angeles and San Diego, policy and/or legislative reports. Preparation time largely relied on agenda items and inclinations of council members. Accordingly, the preparation ran the gamut from 2-days to one week.



## CONCLUSION

Eighty percent (16 cities) of the Cities assessed meet on Tuesday and only three, Santa Ana, Huntington Beach, and, San Bernardino, meet on Monday. Average Council meetings lasted 3 hours with the range from 2 to 5 hours.

Ninety percent of these twenty cities meet once weekly while two city councils, Los Angeles and San Diego, meet three times and twice weekly, respectively.

Preparation time largely relied on effectively setting agenda priority items and inclinations of council members. Accordingly, the preparation ran the gamut from 2-days to one week.

Of the Committees, fifty five percent (11) of the cities had a council committee structure, requiring council members, containing three to eight council members. The remaining 9 cities had a non-council structure of Boards and Commissions comprised of 2 to 7 members.

Finally, a correlation analysis was performed which studied the relationship between a council meeting length (dependent variable) in hours toward (independent variables) day of the week the meeting took place, frequency of meetings, and, time the meetings were held. The results showed that the Day of the meeting explains Length of meeting better than the Time or Frequency of the meeting. A recent study by Accountemp Corporation reveals that Monday is the least efficient work day of the week. More research is recommended on the meetings day as well as the efficiency in preparing meeting agendas to include policy papers for direction and effectiveness

# APPENDIX I

Rank	COUNCIL				COMMITTEES						
by population	City		Num. of members	Meeting day	Meeting freq. per wk	Meeting Length in hrs	Meeting time	Num. of committee members	Num. of members	Meeting frequency	Meeting length/hr
1	LOS ANGELES	3,802,700	15	Tuesday	3	2.5	10:00am	15 comis	5	1per wk.	2
2		1,250,700	8	Tuesday	2	2.5	2:00pm	4 cmte.	5	2per mo.	2
3		918,800	10	Tuesday	1	2	1:30pm	4 cmte.	4	1per wk.	2
5	LONG BEACH	473,600	9	Tuesday	1	4	5:00pm	3 cmte.	7	1per mo.	2
6	FRESNO	441,200	7	Tuesday	1	5	8:30am	30 brds	6	2per mo.	2
7	SACRAMENTO	418,700	9	Tuesday	1	2.5	2:00pm	30 brds	7	2per mo.	3
8	OAKLAND	409,300	9	Tuesday	1	5	7:00pm	5 cmte.	5	1per wk.	2
9	SANTA ANA	348,100	7	Monday	1	4	6:00pm	7 cmte.	2	2per mo.	2
10	ANAHEIM	336,300	5	Tuesday	1	2	5:00pm	13 brds	6	2per mo.	3
11	RIVERSIDE	265,700	7	Tuesday	1	2	2:00pm	7 cmte.	3	2per mo.	2
12	BAKERSFIELD	254,400	8	Wednesday	1	2.5	7:pm	7 cmte.	3	1per mo.	3
13	STOCKTON	251,100	7	Tuesday	1	2	5:30pm	4 cmte.	5	2per mo.	3
14	FREMONT	207,200	5	Tuesday	1	3	7:00pm	16 advisory	3	1per mo.	1.5
15	GLENDALE	199,000	5	Tuesday	1	3	6:00pm	17 brds	3	1per mo.	2
16	MODESTO	194,400	7	Tuesday	1	3	5:00pm	8 cmte.	3	1per mo.	2
17	HUNTINGTON BCH	193,700	7	Monday	1	2.5	7:00pm	8 cmte.	3	1per mo.	2
18	SAN BERNARDINO	190,200	7	Monday	1	3	9:00am	4 cmte.	3	2per mo.	2
19	CHULA VISTA	183,300	5	Tuesday	1	2.5	1:00pm	24 brds	3	1per mo.	2
20	OXNARD	177,700	5	Tuesday	1	2.5	5:00pm	7 advisory	3	2per mo.	2
21	GARDEN GROVE	169,200	5	Tuesday	1	2.5	6:30pm	6 brds	3	1per mo.	2

# APPENDIX II

## Correlation Analysis

In correlation analysis, we generally want to determine whether two variables are interdependent, or **covary** – that is, do they vary together?

Definition: A **correlation** exists between two variables when one of them is related to the other in some way.

In common usage, the word ‘correlation’ describes any type of relationship between objects and events. In statistical usage, correlation refers to a quantitative relationship between two variables measured on ordinal or continuous scales.

When we wish to establish the degree of association between pairs of variables in a sample from a population, correlation analysis is the proper approach.

We hypothesized that the day of the meeting, its frequency, and, meeting time affected the meeting length, and tested the hypothesis using the data from the 20 largest California cities.

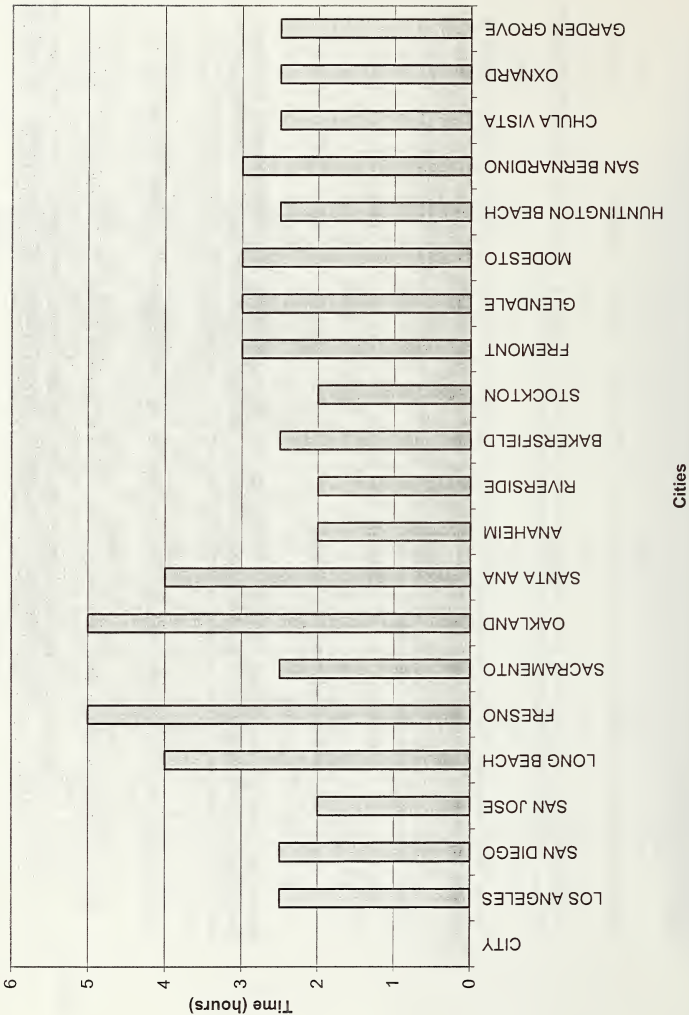
The results were:

1. Length to Day of meeting (-0.32)
2. Length to Frequency of meetings (-0.26)
3. Length to Time of meetings (-0.01)

Because the correlation's were progressively negative from variables #3 to #1 we conclude that there was a relationship between the three variables albeit resulting in a in an inverse correlation. Under this model, the relationships between the variables are weak (less than -0.10) (See Appendix II). Thus, the Day of the meeting explains Length of meeting better than the Time or Frequency of the meeting.

Correlation does not imply causality! Two variables can be correlated because both are influenced by the same third variable.

# Meeting Lengths (hours)





## LEGISLATIVE ANALYST REPORT

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TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Legislative Analyst *GC*  
DATE: April 5, 2002  
SUBJECT: INDEPENDENT LIVING

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### Summary of Requested Action

Motion (introduced by Supervisor Daly) requesting the Office of the Legislative Analyst (OLA) to investigate and report on San Francisco's existing policies and expenditures related to independent living of seniors and persons with disabilities, as well as those policies in other jurisdictions. The motion also requests that the OLA recommend policy approaches to foster independent living in San Francisco for seniors and persons with disabilities.

### Executive Summary

*"Independent living" is an alternative to institutionalized care of the elderly and disabled; independent living services provided by the City and County of San Francisco allow persons to live in their homes and communities, rather than in nursing homes, hospitals and other institutions. The goal of this report is to provide a preliminary look at the services and costs related to independent living in San Francisco, but further research and analysis will need to be done before our estimates can be accepted as precise.*

Nevertheless, the principal findings of this report are the following:

- There are 106,111 persons age 65 and over in San Francisco. This is approximately 14% of the total population. Of the 16 and over non-institutionalized population, 145,253 persons have a disability, while 77,633 persons have a severe disability.
- The City and County of San Francisco spent approximately \$173,638,866 on independent living services in FY 00-01.
- Of this amount, \$55,886,893 was General Fund support. This represents about one-third of the City's total expenditures on independent living.
- San Francisco's service system may be described as decentralized. Several City departments provide the elderly and disabled with community-based services. No central agency exists.
- Advocates of the elderly and disabled contend that the existing system is fragmented, uncoordinated and not consumer-friendly. There is some evidence to support this assertion.

*Based on these findings, the Board of Supervisors may: (1) establish a new or using an existing City task force to look more closely at the current system, (2) commission a study to determine whether it costs less to treat an individual with community-based services rather than in an institution and (3) adopt legislation to require departments to organize services from a consumer perspective. The Board of Supervisors may also urge State and Federal agencies on aging to ease restrictive funding and eligibility guidelines in order to meet the priority needs of the elderly and disabled. Of course, this is a policy matter for the Board of Supervisors.*

## Background

### Demographic Characteristics

According to 2000 U.S. Census Bureau data, the total population of the City and County of San Francisco is 776,733. There are 106,111 persons age 65 and over in San Francisco. This is approximately 14% of San Francisco's total population.

The over 65 population in San Francisco is 49.4% White and 50.6% ethnic/racial minorities. The largest minority group of persons age 65 and over is Asian (36.9%), followed by Hispanic or Latino (8.7%), Black/African American (8.1%), Alaskan/Native American (0.2%), Native Hawaiian/Other Pacific (0.2%), other race (2.7%). Additionally, the 65 and over population in San Francisco is composed of 58.2% (61,736) women and 41.8% (44,375) men.

Moreover, the Census Bureau estimates that of San Francisco's age 16 and over non-institutionalized population, 145,253 persons have a disability, while 77,633 persons have a severe disability. A person is considered to have a disability if he/she has difficulty performing certain activities of daily living. These figures represented 23.8% and 12.7% of the 16 and over non-institutionalized population, respectively.

### Description of Existing System

San Francisco's service system may be generally described as decentralized. Several City departments provide the elderly and disabled with community-based services. According to a 1998 Department of Health report, the existing system has the following deficiencies:<sup>1</sup>

1. No single point of entry: When individuals begin to use services offered by the various departments, they must undergo numerous intakes and assessments.
2. Lack of integration: Services are not organized from a consumer perspective. For example, consumers must apply and obtain housing, in-home supportive services and home-delivered meals from three separate departments (DPH, DHS, DAAS, respectively).
3. Limited case management: Some services have internal case management programs. Only a few case management programs consider the comprehensive needs of the consumer.

Advocates of the elderly and disabled, such as the Independent Living Resource Center (ILRC) and Planning for Elders in the Central City (PECC), contend that the existing system also has the following deficiencies:<sup>2</sup>

4. Funding limitations: Large portions of Federal, State and local funds are earmarked for specific services, but have differing and often restrictive eligibility guidelines. Thus, they cannot be directed to meet the priority needs of the consumer.
5. Fragmented data collection: Departments collect data on consumers using disparate terms, categories and methods, making it difficult to use information to better plan and evaluate use of services.

<sup>1</sup> DPH's Long-Term Care Integration Pilot Project, Main Report, Page 13.

<sup>2</sup> The Legislative Analyst could not corroborate these assertions in prior studies of the existing system. However, two advocates interviewed for this report mentioned them during separate interviews.



## The City's Response

The City has taken steps to address above-noted deficiencies. Most notably, the Department of Aging and Adult Services (DAAS) was created in July 2000, which merged the Office on the Aging, Public Guardian/Administrator, and the Mental Health Conservator Office. These were formerly three separate departments. DAAS, in turn, made the following improvements to the existing system:

- Continued to consolidate services. DAAS absorbed Adult Protective Services in January 2002, which was formerly within DHS, and will do the same with DHS's In-Home Supportive Services (IHSS) program in January 2003.
- Assumed responsibility for implementing improvements to the City's long-term care service delivery system. This was formerly a function of DPH's Long-Term Care Pilot Project Task Force, which concluded its work in February 2001.
- Established the Living with Dignity Policy Committee. DAAS formed this committee in May 2001 to guide the improvements to the City's long-term care service delivery system of services. Membership includes City agencies, providers, advocates and consumers.
- Developed SFGetCare. This is a web-based system designed to assist consumers to obtain information on available in-home and community-based services, and record track and enroll consumers in DAAS services.

DAAS also intends to make the following improvements to the existing system:

- Evaluate how to best organize DAAS's intake and referral services
- Undertake a strategic planning process to improve the City's long-term care service delivery system
- Investigate the optimum way to organize case management services
- Sponsor a Living with Dignity Policy Summit (October 2002)

Our office cannot claim to have identified all of DAAS's efforts to date. Instead, we sought to provide the Board of Supervisors with broad overview of completed and scheduled activities. For specific programmatic information, see the Appendix section of this report.

## Current Law

### The Older Americans Act of 1965

The Older Americans Act was passed by Congress in 1965. The Act calls for a range of programs that offer services and opportunities for older Americans, especially those at risk of losing their independence. The Act established the Administration on Aging (AoA), which is part of the U.S. Department of Health and Human Services.

The AoA awards funds under several titles of the Act to State Agencies on Aging nationwide.<sup>3</sup> Program funding is allocated to each State Agency on Aging, based on the number of older persons in the State, to plan, develop and coordinate systems of supportive in-home and community-based services. Most States, including

<sup>3</sup> Title III, for instance, supports a range of services including nutrition, transportation, senior center, health promotion and homemaker services. Title VII places emphasis on elder rights programs including the nursing home ombudsman program, legal services, outreach, public benefit and insurance counseling, and elder abuse and prevention efforts.

California, are divided into Planning and Service Areas (PSAs) so that programs can be effectively developed and targeted to meet the unique needs of the elderly residing in the area. Area Agencies on Aging (AAA) receive funds from their respective State Agencies on Aging to plan, develop, coordinate and arrange for services in each PSA. AAAs contract with public or private groups to provide services. In some cases, the AAA may act as the service provider, if no local contractor is available.

### **The Olmstead Decision of 1999**

On June 22, 1999, the U.S. Supreme Court ruled in the case *Olmstead v. L.C. and E.W.* that the "integration mandate" of the Americans with Disabilities Act (ADA) requires public agencies (i.e., Federal, state and local governments) to provide services "in the most integrated setting appropriate to the needs of qualified individuals with disabilities" unless doing so would "fundamentally alter" the nature of such services. Disabled people segregated in institutions have used this ruling to require states to provide state services in the community. *Olmstead v. L.C. and E.W.* reached the Supreme Court when the Georgia Department of Human Resources appealed a decision by the 11th Circuit that it had violated the ADA's "integration mandate" by segregating two women with mental disabilities in a state psychiatric hospital after the agency's treatment professionals had recommended their transfer to state provided community care.

### **Issues and Options**

#### **The Cost of Independent Living**

*Determining the cost of independent living services to the City is not as simple as opening the City and County budget and pointing to a line item for "independent living." As discussed below, several City departments offer independent living services. Further complicating the analysis is the fact that departments derive funding for their independent living programs from a combination of Federal, State and local sources. Noting these complications, the Legislative Analyst estimates that in fiscal year 2000-2001, the City and County of San Francisco spent approximately \$173,638,866 on independent living programs and services. Of this amount, \$55,415,601 were General Fund dollars.*

#### **The Office on the Aging (OOA)**

The Office on the Aging is San Francisco's designated Area Agency on Aging (AAA). The OOA is one of three divisions of the recently consolidated Department of Aging and Adult Services. It contracts with 43 community-based nonprofit and two public agencies to provide services to San Franciscans age 60 and over. The majority of OOA funding dollars for direct services support nutrition programs (congregate and home-delivered meals) and senior center activities (community services). The Senior Information and Referral Program also operates within the OOA.

Total OOA expenditures on Independent Living services equal \$11,711,108 in FY 2000-2001, of which \$8,080,665 were General Fund dollars.

#### **Public Administrator/Public Guardian/County Veterans Service Office**

The Public Guardian is also one of the three divisions of the recently consolidated Department of Aging and Adult Services. The Public Guardian serves as probate conservator of person and/or estate for elderly and developmentally disabled adult residents in San Francisco. The Public Guardian Representative Payee Program



serves mentally ill residents in locked psychiatric facilities and community resident adults who have mental health case managers.

Total Public Guardian expenditures on Independent Living services equal \$2,836,062 in FY 2001-2002, of which \$2,336,062 were General Fund dollars and Fees for Services.

### **Adult Protective Services (APS)**

In January 2002, DAAS absorbed Adult Protective Services, which was formerly a part of the Department of Human Services. APS investigates possible abuse or neglect of seniors and disabled/dependent adults. The abuse may be physical, emotional or financial, neglect by others or self-neglect. If abuse is suspected, social workers provide short-term counseling, case management and referral services.

Total APS expenditures on Independent Living services equal \$5,155,375 in FY 2000-2001, of which \$227,282 were General Fund dollars.

### **Department of Human Services (DHS)**

The Adult Services Program, within DHS administers the In-Home Supportive Services (IHSS) program. In addition to independent providers hired by the client, DHS contracts with a coalition of community-based non-profit organizations (IHSS Consortium) to provide in-home supportive services to seniors and people with disabilities. These services include case management, homemaker/chore and personal care services (meal preparation, cleaning, and personal grooming). The San Francisco IHSS Public Authority, a public agency that is managed by its own governing body, oversees the independent provider service delivery system within the IHSS program.

Total DHS expenditures on Independent Living services equal \$119,000,000 in FY 2000-2001, of which \$30,040,000 were General Fund dollars.

### **Municipal Railway (MUNI)**

MUNI's Accessible Services Program oversees fixed-route and paratransit services for San Francisco. Paratransit services are available for persons unable to access fixed route services. Paratransit services include lift-van for individual trips by wheelchair users, group van for ten or more persons transported to a common site, taxi scrips for ambulatory individuals and ramped taxi service. These services are available to ADA eligible persons of all ages citywide. The OOA funds group van services to senior meal sites, shopping trips and recreation and individual trips for seniors who are not eligible for services under ADA guidelines.

Total MUNI expenditures on Independent Living services equal \$16,930,511 in FY 2001-2002, of which \$2,377,130 were General Fund dollars.

### **Mayor's Office on Housing (MOH)**

MOH provides funds for nonprofit housing development corporations to develop senior housing projects. Funds are derived from a combination of revenue streams including General Obligation bonds, federal grants and San Francisco Redevelopment Agency tax-increment monies. MOH also provides loans for housing code upgrades to low-income senior and disabled homeowners in target areas and citywide.

Total MOH expenditures on Independent Living services equal \$2,645,035 in FY 2000-2001, of which none were General Fund dollars.

### **Department of Public Health (DPH)**

DPH provides health and health-related services to seniors and people with disabilities living in the community. The Department offers these services within its two divisions: the Community Health Network (CHN) and Public Health (PH). Specifically, CHN offers (1) housing and support services for clients and patients of the DPH System of Care and (2) home health care services for patients discharged from the hospital requiring nursing care that would otherwise require institutionalized care. PH provides Adult Day Health Care for elderly or disabled adults in the community and those who have been recently discharged from the hospital or skilled nursing facility that might otherwise require institutionalized care.

Total DPH expenditures on Independent Living services equal \$15,360,775 in FY 2000-2001, of which \$12,825,754 were General Fund dollars.

### **Community-Based Services v. Institutionalized Care**

Little detailed research has been done to compare the costs of community-based services to the cost of institutionalized care for the elderly and disabled in San Francisco. Whether or not community-based services are more or less costly than institutionalized care remains an open question. Advocates of independent living assert that it costs less to treat an individual with community-based services rather than in a nursing home, hospital or other institution, but often only by comparing the cost of community-based services to all of the costs related to institutions. This approach will almost always reveal a huge difference in costs, which favors the use of community-based services. However, in the Olmstead decision, the Court noted that *"a comparison so simple overlooks the costs the State cannot avoid, most notably, a 'State...may experience increased overall expenses by funding community placements without being able to take advantage of the savings associated with the closure of institutions.' As already observed,...the ADA is not reasonably read to impel States to phase out institutions."* Other advocates contend that more clients are served with the same State Medicaid dollars in community-based programs than in institutions, but only by using a comparison formula which contrasts certain cost-effective programs to less economical institutions.

Thus, neither of these approaches provides little accurate analysis of how much it costs to offer community-based services versus institutionalized care, and more importantly, little guidance in terms of what methodology should be implemented to assess and compare costs. We believe that further research and analysis should be done in this area before any conclusions may be drawn.

### **Other Jurisdictions**

#### **Alameda County, California**

Alameda County maintains a "coordinated decentralized" service system. Like San Francisco, several departments in Alameda County provide services to the elderly and disabled. However, most of these services are coordinated through the Adult and Aging Services (AAS) department located within the Alameda County Social Services Agency.

The Alameda County Area Agency on Aging (AAA) is one of eight divisions within Adult and Aging Services. AAA is Alameda's designated Area Agency on Aging, which provides subcontracted services to persons age 60 and over through grants from Federal Administration on Aging, the State of California and the County of Alameda. Other divisions include Adult Protective Services, In-Home Supportive Services (IHSS) (which provides in-home care to seniors and persons with disabilities), the Public Authority for IHSS, and the Public Guardian/Probate Conservatorship. According to the AAA, divisions within the Aging and Adult Services are fairly well connected. Thus, duplication of services is minimized. However, no single point of entry exists, as is the case in San Francisco. The AAA performs needs assessment activities for Alameda's PSA that are sometimes based on census data, surveys and focus groups organized in conjunction with community-based groups.

In FY 01-02, Alameda County spent a total of \$126,838,530 on independent living services, including \$114,021,305 for IHSS and \$12,817,225 for Aging and Adult Services. The County derived funds from a combination of revenue streams including Federal, State and local sources.

### **The City of Seattle, Washington (King County)**

Seattle's service system may be described as centralized. Aging and Disability Services (ADS) is the assigned Area Agency on Aging for the Seattle-King County region. The City of Seattle Human Services Department acts as the legal contracting authority. Under a regional agreement, the City of Seattle, King County and the United Way serve as the sponsors and policy-setting board for ADS.

ADS funds eighteen (18) services to seniors and persons with disabilities who live in King County. Services related to independent living include: adult day services, case management, client specific funding program, COPEs/Chore Personal Care/Personal Care, disability access services, elder abuse prevention, employment (job placement assistance), home health and health maintenance, homesharing, nutrition, respite care, transportation. In addition, general services for the elderly and disabled include: the Alzheimer program, disease prevention/health promotion, information and assistance, legal services, mental health, nurse consultation, outreach advocacy, senior centers, Seniors in Service to Seattle, technology support, utility discount program.

Because ADS administers all Federal, State and local funds for these services, it is able to recognize gaps in services and minimize duplication of services. According to ADS, its Senior Information and Assistance Center is essentially a central intake and referral system. Moreover, ADS performs needs assessments, typically in collaboration with community-based organizations. ADS's 2000 budget totals \$32,564,226. Most of this funding (about \$23 million) is "non-discretionary" or earmarked for specific services. Discretionary funding (about \$7 million) is more flexible in nature and can be directed to meet the priority needs of King County.

### **Recommendations**

Based on our preliminary research and analysis, the Legislative Analyst offers the following recommendations for your consideration:

1. Create a new or use an existing City task force to look more closely at the current system. The Living with Dignity Policy Committee is the obvious candidate for this task. However, it is an advisory group to DAAS, not the Board of Supervisors. The Board of Supervisors would need to establish either a link to this group or a line of communication to it through DAAS.

2. Commission a study to determine whether it costs less to treat an individual with community-based services rather than in a nursing home, hospital or other institution. We would like to note that whether or not independent living saves the City money might not be the most appropriate guideline for determining whether community-based services should be increased. Independent living undoubtedly provides benefits to the elderly and disabled, whose value a cost analysis may not attempt to assess.
3. Adopt legislation that addresses the deficiencies of the existing system as identified in this report. Specifically, the Board of Supervisors may continue to consolidate departments and require departments to organize services from a consumer perspective. The Board of Supervisors may also urge State and Federal agencies on aging to ease restrictive funding and eligibility guidelines in order to meet the priority needs of the consumer.

City Department	Program Description	Eligibility	No. of persons served	Program Costs and Revenue Sources (FY 00-01)
Department of Human Services (DHS), Adult Services Program	<u>In-Home Support Services (IHSS)</u> The Adult Services Program, within DHS administers IHSS. IHSS assists elderly, blind, and disabled people to remain in their homes when they are no longer able to fully care for themselves or handle routine household tasks. IHSS pays for a wide variety of services – household chore and personal care – enabling the individual to live safely in his/her own home, while encouraging independence and rehabilitation where possible. IHSS is an alternative to out-of-home care/institutional placement.	Any person who is age 65 or older, or a person who is blind or disabled (of any age), who is unable to remain safely at home without such services, and who receives, or is eligible to receive, a cash grant through the Supplemental Security Income/State Supplemental Payment (SSI/SSP) Program, or who meets the eligibility criteria for SSI/SSP but has too much income to get a cash grant.	11,239 (active cases in Sept. 2001)	\$109,000,000 for IHSS services (45% Federal, 29% State, 26% General Fund)  \$10,000,000 for IHSS administration (49% Federal, 34% State, 17% General Fund)
	<u>Adult Protective Services (APS)</u> : APS investigates possible abuse or neglect of elders and disabled/dependent adults. The abuse may be physical, emotional, financial, neglect by others, or self-neglect. If abuse is suspected, social workers provide short-term counseling, case management and referral services.	These services are available to all San Franciscan residents 65 and over, or disabled/dependent younger adults, 18-64.	220-250 (active case per month)	\$5,155,375 (\$2,503,179 Federal, \$2,424,914 State, \$227,282 General Fund)
Department of Aging and Adult Services (DAAS), Office on the Aging (OOA)	<u>In-Home Services</u> : The OOA funds an agency to provide emergency in-home services to elders who need immediate, temporary in-home services. In-Home Services consist of three components: Personal Care, Homemaker and Chore.	Provides services to individuals 60 years and older per the 1965 Older Americans Act and younger individuals with disabilities.	42,782	\$238,751 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)
	<u>Home-Delivered Meals</u> : Nine different providers provide home-delivered meals in all neighborhoods. Meals on Wheels is largest provider.	See above.		\$4,353,482 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)
	<u>Adult Day Care/Health Services</u> : The OOA funds the San Francisco Adult Services Network to provide adult day health service subsidies to low-income elders who are not	See above.		\$568,163 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)

	eligible for Medi-Cal and cannot pay the sliding fee schedule. The OOA also funds two agencies to provide adult day support.			
	<u>Case Management:</u> The OOA funds ten different Case Management programs. Providers target this service in specific neighborhoods.	See above.		\$846,323 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)
	<u>Transportation:</u> The OOA funds the Municipal Transportation Agency Muni Accessible Services Program, which is described below.	See above.		\$683,031 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)
	<u>Legal Services:</u> The OOA funds four agencies to provide legal services. In addition, staff from these agencies provide intake, advice and community education sessions to older persons.	See above.		\$745,039 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)
	<u>Other Services:</u> Community services including activity scheduling, translation, and social services. 10 Senior Centrals located around the City provide one-stop neighborhood access to an expanded range of information and services called for by seniors. Other services also include health screenings.	See above.		\$4,276,319 (21% Federal, 10% State, 69% General Fund and local off-street parking fees)
San Francisco Municipal Railway (MUNI)	<u>Accessible Services Program:</u> Paratransit services through the Municipal Transportation Agency Muni Accessible Services Program serve all neighborhoods and provide wheelchair lift-van and group van transportation to ADA eligible persons of all ages citywide.	These services are available to ADA eligible persons of all ages citywide.	Not available as of the writing of this report.	\$16,930,511 (\$3,280,000 Federal, \$568,819 State, \$2,377,130 MTA General Fund, \$9,661,456 SF Transportation Authority and \$1,043,106 BART; The OOA's contribution to this program is listed above) <sup>4</sup>
	<u>Public Guardian (Probate Conservatorship):</u> The Public Guardian serves as probate conservator of person and/or estate for geriatric and developmentally disabled adult San Franciscans.	Priority is given to seniors in the community at risk of financial or physical abuse.	425 elderly clients and developmentally disabled clients.	\$2,836,062 (approximately \$2,336,062 General Fund, \$500,000 Fee for Services) <sup>5</sup>

<sup>4</sup> This budget is for FY 2001-2002.

<sup>5</sup> This budget is also for FY 2001-2002 and funds both Probate Conservatorship and the Representative Payee Program.



	<u>Representative Payee Program:</u> The Public Guardian Representative Payee Program serves mentally ill residents in locked psychiatric facilities and community resident adults who have mental health case managers.	Priority is given to mentally-ill clients.	1,200 mentally-ill and elderly clients	See above.
Department of Public Health (DPH)	<u>Community Health – Housing and Support Services:</u> Housing and support services for clients and patients of the DPH System of Care. Specialty case management services are provided to mental health client discharges from the hospital and psychiatric skilled nursing facilities, persons with HIV/AIDS, disabled patients who lack a support network, and the frail and elderly who would otherwise require institutionalized care.	Not available as of the writing of this report.	Not available as of the writing of this report.	\$9,273,123 (\$392,350 Federal and State, \$8,880,773 General Fund)
	<u>Community Health Network – Health at Home:</u> Home health services for patients discharged from the hospital requiring nursing care that would otherwise require institutionalized care.	See above.		\$4,993,787 (\$1,388,515 Federal and State, \$3,605,272 General Fund)
	<u>Laguna Honda Hospital – Community Support:</u> Adult Day Health (like daycare) for adults, many who are elderly or disabled, from the community or that have recently been discharged from the hospital or skilled nursing facility that might otherwise require institutionalized care.	See above.		\$1,093,865 (\$754,156 Federal and State, \$339,709 General Fund)
Mayor's Office on Housing (MOH)	<u>Affordable Rental Housing Units:</u> The MOH provides funds for nonprofit housing development corporations to develop senior housing projects, and loans to rehabilitate existing homes of the elderly and disabled.	Low-income elders (age 62 or older) and developmentally disabled individuals who live independently.	180	\$2,645,035 (Funds are derived from a combination of revenue streams including General Obligation bonds, federal grants and SF Redevelopment tax-increment monies.







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LEGISLATIVE ANALYST REPORT

TO: HONORABLE MEMBERS OF THE BOARD OF SUPERVISORS  
FROM: Jesse Martinez, Legislative Analyst  
DATE: April 12, 2002  
FILE: 012178  
SUBJECT: Intermediary Care Facilities (public inebriate treatment)

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**SUMMARY OF REQUESTED ACTION**

A motion (introduced by Supervisor Newsom) requesting the Office of the Legislative Analyst (OLA) to prepare a report comparing the best practices and/or models, otherwise known as Intermediary Care Facilities, used in other major cities in the treatment of public inebriates, including but not limited to the cities of Portland, Oregon; Seattle, Washington; and Denver, Colorado.

**EXECUTIVE SUMMARY**

This report examines models in 4 counties nationwide: Denver County (Colorado), Multnomah County (Portland, OR), and, San Mateo County (California).

The OLA found that the jurisdictions surveyed generally reflected an acceptance that a comprehensive approach to alcohol abuse treatment is the best approach.

For instance, King County provides a holistic manner to treatment. It offers residential and outpatient treatment as well as specialized services such as the "Crisis Triage Unit." This unit is located within a hospital and serves clients with a dual diagnosis scheme. Case managers are also available to manage the varying needs as applicable.

The OLA recommends that, as a matter of policy, the Board urge departments (housing, public health, human services) to adopt some of the models in this report. Implementation of any or all of these practices can significantly improve treatment for the segment of the population in need of specialized services in San Francisco.

## BACKGROUND

The California Department of Alcohol and Drug Programs (DADP) directs and coordinates the state's efforts to prevent or minimize the effects of alcohol-related problems, narcotic addiction, and drug abuse. Services include prevention, early intervention, detoxification, and recovery.

The California treatment system is primarily administered by the counties, although county officials must comply with a number of state and federal regulations<sup>1</sup> regarding provider licensing and the allowable uses of certain funding streams.

The department licenses more than 1,800 programs statewide, about half of which receive public funding. In addition, DADP collects client characteristic data from these providers and county-level data on treatment capacity, enrollment, and waiting lists. Little information is collected regarding treatment outcomes.

Since July 1995, more than 600,000 Californians have received publicly funded treatment of some type. Of these, 64 percent were male and 36 percent female. The average age of those in treatment has dropped slightly in recent years, from 38 in 1995-96 to 36 in 1997-98, due to an increasing proportion of adolescents and young adults. People in treatment represent a variety of races and ethnic backgrounds, although the treatment population is predominately white.

## POLICY AND PRACTICE

Types of Substance Abuse Treatment. Substance abuse treatment programs can be categorized in a number of ways. The State groups common treatment programs into two main categories, detoxification and recovery. Each category includes a range of treatment options, both residential and outpatient. All of these treatment options are available in California, although each county offers a different mix of services.

Detoxification. Detoxification is the process of withdrawing from alcohol or other drugs, which may be done in an outpatient or residential program. Detoxification is primarily seen as a short-term way to stabilize clients and prepare them to move into the recovery phase of treatment. Detoxification by itself is not considered an effective means of treating substance abuse.

Recovery. Outpatient and residential treatments that help addicts remain sober are included in this category. They are clustered into four main groups, each encompassing a wide variety of programs with different approaches to recovery. These programs may include group, individual, or family counseling; education and vocational training; social skills training; and other components that help participants change their lifestyles in order to maintain sobriety. Many programs have both an active treatment component and an "aftercare" component that supports clients when they are back in the community and at a greater risk of relapsing. Aftercare commonly includes participation in a self-help group, including "12-step" programs.

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<sup>1</sup> California Legislative Analyst Office, "Substance Abuse Treatment in California," July 13, 2002  
 City Hall, 1 Dr. Carlton B. Goodlett Place, Room 270 • San Francisco, California 94102-4532  
 Telephone (415) 554-5184 • Fax (415) 554-7786 • TDD (415) 554-5227

California's Treatment Mix. According to DADP, recovery programs accounted for 92 percent of the available slots, while detoxification programs made up the remaining 8 percent. 50 percent of the recovery slots were in outpatient drug free programs, with an additional 35 percent in narcotic treatment programs.<sup>2</sup> About 10 percent of the recovery slots were in residential treatment programs, and 5 percent were in day treatment programs.

## **POLICY ISSUE**

DADP identified several problems in the state's substance abuse treatment system. These include lengthy waiting lists in a number of counties, no statewide plan for addressing the demand for treatment services, and a need in particular for treatment services aimed at adolescents.

For local policymakers, the challenge is equally great. The need is for a willingness to ineffective options. As a disease with strong links to family, addiction must be treated with the best possible services and community support. At a time of greatly increased concern about the effectiveness of public spending, knowing which kinds of treatments are effective is an important policy tool that can increase the overall accountability of the alcohol and other drug treatment system. However, these new data are useful only if policy makers approach with concern for the overall health of society, rather than the personalized stigma attached to alcohol and other drug abuse.

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<sup>2</sup> See LAO, July 13, 2002

## JURISDICTIONS

(see Appendices for in-depth data on individual jurisdictions)

County/ population	Assessment	Major treatment types	Clients	Success	Barriers
<b>San Francisco/ 776,733</b>	Treatment Access Program (TAP) recently initiated for centralization	residential; outpatient; prevention; Community Awareness & Treatment Services (CATS) serving the homeless, multi-disordered & severely marginalized	14,970 assessed in treatment; 1,660- residential; 4,300-outpatient	Redwood Ctr, 45-90 day treatment primarily for homeless men. 75% discharged complete treatment goals.	Insufficient resources for CATS; lack of specially trained outreach personnel; lack of resources to plan for the aging population and related health care needs
<b>King (Seattle,WA)/ 1,737,034</b>	County Assesment Center- centralized	5-residential; 10-outpatient; 60-bed Sobering Ctr.; Emerg. Serv. Patrol van (ESP)	4,107 assessed 26,415 admitted 110 case management; 22, 234 ESP 2, 250 detox.; 8,600 outpatients	66% of case managed had improved housing (vs. the projected 40%)	Lack of funding for treatment resources
<b>Denver (Denver, CO)/ 554,636</b>	Diverse treatment centers	Residential; outpatient & inpatient	70,000 drug & alcohol clients annually	68%-75% treatment goal completion (vs. projected 50%)	Lack of resources
<b>Multnomah (Portland, OR)/ 660,486</b>	Diverse treatment centers-21 agencies	No data	18,000 clients annually	No data	No resources- less than 40% seeking treatment receive it; only 1 in 7 adults seeking residential treatment receive it
<b>San Mateo (San Mateo, CA)/ 707,161</b>	Comprehensive assessment is being improved by centralization	Residential; outpatient & inpatient	2,000 dually- diagnosed (mental & substance abuse);	Reduced treatment waiting time by a 'treatment readiness' modal ; secured \$2.1 in grants	Lack of capacity (of the 5,040 jail releases in need, 70 annually receive services; NIMBY problems in building facilities

## CONCLUSION AND RECOMMENDATIONS

The jurisdictions surveyed did reflect an acceptance that a comprehensive approach to the issue of alcohol abuse treatment is the best model. A few, King County (Seattle) and San Mateo, have commenced serious efforts in implementing this holistic method. Empirical evidence of "success" and indeed, 'best practices,' should be forthcoming in the years to come.

Research indicates that substance abuse treatment is cost-effective to society in general. While the research generally indicates those treatment results in savings to government, we did not find a reliable estimate of cost-effectiveness specifically to government; that is, a comparison of the public savings and costs of program interventions.<sup>3</sup>

### *Recommendations*

All the counties surveyed, including San Francisco, believe that too often the treatment programs are curtailed in their scope of services to just focusing on "being clean and sober." The OLA recommends that the Board of Supervisors urge departments to improve education, improved employability, more satisfying parenting and partnering relationship skills, and independent living skills of maintaining housing, meeting nutritional and health care needs, and practicing financial management.

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<sup>3</sup> On going research by the National Institute on Alcohol Abuse & Alcoholism (NIAAA), Nancy P. Barnett, Ph.D. and Suzanne M. Colby, Ph.D., Peter M. Monti, Ph.D., and Mary Lou McMillan, MPH.

## APPENDIX

In-depth jurisdictions in the Appendix are:

- San Francisco
- Seattle, WA (King County)
- Denver, CO (Denver County)
- Portland, OR (Multnomah County)
- San Mateo County (California)

## SAN FRANCISCO<sup>4</sup>

### Policy/Law

Policy and Laws Governing treatment:

In California policies and laws governing treatment are contained in the Constitution, 29 Codes of Law, and Codes of Regulations with 28 Titles. Numerous laws pertain to substance abuse treatment.<sup>5</sup> San Francisco has long been reviewing and improving the manner by which alcohol abuse treatment is modeled.<sup>6</sup>

According to San Francisco representatives, laws mandate that the substance abuse treatment is "voluntary," meaning no individual can ever be committed against his/her will into a treatment program. This is perceived as a barrier to treatment continuity and resolving the alcohol abuse issue and efforts to remedy by treatment.

<sup>4</sup> All data and information is derived from the San Francisco Department of Human Services as presented.

<sup>5</sup> Health and Safety Code, Division 10, Uniform Controlled Substances Act, 11000-11999 recognizes addiction and the need for treatment in the population and establishes voluntary treatment systems jointly managed by the State Department of Alcohol and Drugs and the individual counties. Welfare and Institutions Code, Division 5, Community Mental Health Services, Part 1, (The Lanterman-Petris-Short Act), 5150-5176 establishes the condition "a danger to self or others" under which a person may be committed into treatment. Family Code, Division 11, Minors, Part 1, Age of Majority, 6920-6929 establishes age 12 and older as the age of personal consent to treatment without parental consent or knowledge. Penal Code, 1000-1000.8 Marijuana Laws, 1211 Drug Diversion programs, 6240-6246 and 8000-8002 Substance Abuse Community programs, and 13860-13864 Drugs in Schools. These create "deferred entry of judgment" allowing Drug Courts to be established.

California Code of Regulations (CCR), Title 9, Rehabilitative and Developmental Services, Division 4, Alcohol and Drug Programs create the procedures for narcotic replacement treatment and residential licensing of treatment programs.

<sup>6</sup> Supervisor Kennedy proposed consideration of the types of services provided by city agencies for public inebriates, to determine whether the programs are effective, and whether plans exist to establish permanent programs or services for them (File 480-86). Supervisor Walker requested that the City Attorney issue an opinion on the use of Proposition 52 monies in terms of construction and rehabilitation of a community-based facility for a voluntary detoxification program for public inebriates to be staffed by health care and social workers with particular references to the following questions (October 11, 1988)  
Resolution urging the Mayor to urge the Health Commission, the Police Commission and the Sheriff to extend for public inebriates who are charged with "drunk in public" (Section 647F of the Penal Code) a community-based social model detoxification and treatment program with medical accessibility for the acute and long term care of these clients (Public Inebriates PolicyFile 219-90-1).



## APPENDIX-continued

However, police and health care professionals may hold individuals in a psychiatric facility for up to 72 hours under California Welfare and Institutions Code 5150 or 2 weeks under 5250 if they meet criteria as "a danger to themselves or others." Being under the influence of drugs or alcohol is not sufficient once the person becomes alert, oriented and able to refuse custodial treatment. The danger must be a clear and present. Endangering one's health slowly over a long period of time because of repeated substance abuse does not meet the criteria. Likewise, being under the influence of drugs or alcohol is not itself a crime. Another misdemeanor or felony offense must occur before an individual can be taken into police custody. In court the judge does not sentence the offender to treatment, but rather, in counties like San Francisco, offers defendants with non-violent drug or alcohol related charges the option of attending treatment in lieu of jail time. Pre-plea cases go through the Drug Court system; post-

Conviction cases are processed under the Substance Abuse and Crime Prevention Act of 2000 (ballot proposition 36).

### Client assessment process

The former system of access to treatment that depended on each individual finding the program that matched his or her needs resulted in unequal access to San Francisco's Community Substance Abuse Services (CSAS) limited resources. Those fully mobile individuals with previous treatment experience tended to have the fastest access. Therefore, the Treatment Access Program (TAP) was developed to centralize the assessment process for vulnerable populations<sup>7</sup> and facilitate placement into treatment equal to placement rates populations.

San Francisco's substance abuse treatment system is scaled by intensity of service along a continuum of care. Current modalities of treatment are:

**Primary Prevention:** These consist of mostly educational services such as providing information through media, health fairs, school based classroom education, telephone hotlines, alternative activities to keep individuals, usually youth, off the streets and out of proximity to drug or alcohol environments. Efforts to influence community planning, e.g., the placement of liquor licenses, are managed by another department within DPH.

**Secondary Prevention:** These services consist mainly of outreach activities targeted toward specific at-risk populations such as intravenous drug users on the street, pregnant women using drugs, men having unprotected sex with men while under the influence of drugs or alcohol, homeless individuals under the influence on the streets. Services also include interventions, brief screenings and referrals to appropriate resources.

**Drop-In Intervention Centers:** The services work in tandem with outreach services. Individuals receive some basic health services such as medical assessment, snacks, showers, and clean clothes while being offered intervention opportunities, brief screenings and referrals to appropriate resources.

**Outpatient Counseling:** These services are classified as treatment instead of prevention/intervention and may consist of individual, group counseling or family counseling and case management by trained substance abuse treatment professionals usually on a once or twice weekly basis. The opportunity to meet with peer counselors who have overcome similar life experiences is helpful in substance abuse service continuum. Some outpatient services are billable to Medi-Cal for eligible individuals

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<sup>7</sup> Vulnerable populations have been identified as having no previous treatment experience, dual disordered, hospitalized, Proposition 36 referrals

## APPENDIX-continued

**Extensive Outpatient Counseling:** Also classified as treatment, these are more frequent or longer duration outpatient services and include alternative therapies such as acupuncture, meditation, educational sessions on anger management or life skills activities such as parenting classes, managing personal finances, relaxation techniques.

**Day Treatment:** This service is potentially billable to Medi-Cal for eligible individuals and consists of a structure program consisting of counseling, alternative therapies, and life skills activities described above for at least three days per week and at least six hours daily. Treatment episodes typically last 90-180 days.

**Residential Treatment:** Twenty-four hours of structured treatment, alternative therapies, life-skills, clean and sober recreation and including meals, overnight housing and vocational planning. Treatment typically lasts for 30 days to 1 year.

**Detoxification:** San Francisco offers residential social model detox (no prescription medications) for up to seven days, and residential medically managed detox (medication prescribed and managed) for up to 21 days.

### Number of Clients

Clients, who have received services in the treatment portion of the continuum of care, e.g., outpatient, intensive outpatient, day treatment, residential, detoxification, and maintenance, have been registered in a master CSAS database beginning in 1991. Over a ten-year period, 80,000 unduplicated clients have been recorded in treatment modalities (Prevention and ancillary data have not been entered in the master database).

**Annual clients in Treatment.** The number of clients receiving State certified treatment services has risen from approximately 13,000 annually in the mid- 1990s to 15,000 in the past year.

**Daily Total of Individuals:** On any typical weekday, there are 5,000 individuals receiving CSAS funded services, not only treatment but inclusive of prevention and ancillary.

**Alcohol services:** In Fiscal Year 2000-2001, of the 43,000 unique treatment episodes provided, 15,000 cases (almost 33%) showed alcohol as the primary problem. This compares to 43% nation-wide. Of the 14,500 unduplicated clients seen in 2000-2001, 4,300 individuals chose alcohol as their drug of choice.

**APPENDIX-continued**

Costs (Source: direct table from DHS)

Client Services Modality	Funding Allocations FY 2000-01 for Client Services	Annual Slot Capacity (number of clients possible)	Average Cost per Day
Primary Prevention: Information, Education, Alternative Activities	2.5 M	9,600	\$30
Secondary Prevention: Outreach, Intervention, Referrals	2.6 M	11,800	\$25
Drop-In Intervention Centers	2.0 M	8,700	\$20
Outpatient Counseling*	7.6 M	5,000	\$75
Intensive Outpatient Counseling*	3.8 M	840	\$110
Day Treatment*	1.8 M	540	\$80
Residential*	14.0 M	1,660	\$80
Detoxification*: Outpatient, Social Model Residential, Medical Model Residential	3.5 M	4,300	\$150-\$200
Detoxification*: Methadone for Opiate Addicts	0.4 M	620	\$20
Methadone or LAAM Maintenance*	7.6 M	1,700	\$12
Aftercare*	0.4 M	310	\$75
Ancillary-Medical Support Services	1.3 M	3,600	\$40
Ancillary-Stand Alone Case Management (in shelters, jails)	0.6 M	850	\$15
Mental Health Medi-Cal Match	0.5 M	220	N/A
Drinking Driver Programs	0	1,800	\$0 (client pays full fee)
<u>Treatment Access Program</u>	0.8 M	N/A	N/A
<b><u>Totals</u></b>	\$49.4 M *In Treatment = \$37.3 M	51,540 *In Treatment = 14,970	

## APPENDIX-continued

### Successes

#### Successful Program<sup>8</sup>

Redwood Center, a program of Community Awareness and Treatment Services (CATS), is the example of a highly successful alcoholism treatment program. CATS Redwood Center is one of San Francisco's longest running residential alcohol and drug treatment programs for men. It is the only program contracting with CSAS that is located outside of San Francisco. The program is either 45 or 90 days duration and targets primarily homeless men or those exiting jail waiting for longer-term programs. Annually, about 240 clients register for services. Of those discharged, 75% complete their treatment goals. Several are discharged into other longer-term transitional programs.

### Barriers

#### Limited availability of resources:

Even with CSAS' \$45 million budget for direct client services, there remains limited ability to reach all target populations in need and provide the depth of service in each treatment modality necessary to make a lasting impact.

Underserved target populations: The SF publicly funded continuum of care focuses on the marginalized disadvantaged individuals who do not have access to private insurance or other resources. Even so, CSAS is not able to meet all needs.

Adolescents growing up with alcoholic and addicted parental figures: These are most severely at-risk because they are early victims of trauma, neglect, disordered lifestyles, and may carry some genetic propensities.

Homeless, multi-disordered, severely marginalized individuals: The needs of this diverse group continue to exceed the CSAS resources. The needs are for 1) specially trained outreach workers and 2) specially and uniquely designed drop-in intervention centers and housing opportunities. Because these services are intended for people who may still be under the influence of substances, there are added costs for on-site health care and for maintenance of the physical premises, e.g., plumbing, laundry, bedding, security.

Age related trends: The system has not been able to plan ahead for aging of the whole population and what that means for increasing alcohol use and related health care needs.

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<sup>8</sup> Measures of Successful Treatment. The substance abuse database records baseline for the following behaviors for the 30-day period prior to treatment and the status on discharge for the same behaviors. Success is defined as improvement in the selected subset of three or four elements chosen for the treatment plans.

Addiction: frequency of USB (quantity of use is not measured in the current system)

Health: stabilization of disease symptoms, improved health care habits, taking appropriate medications, improved health

Mental Health: stabilization of disease symptoms, improved mental health care habits, taking appropriate medication, improved mental health, emotional and spiritual wellbeing

Socialization skills: establish alternatives to, & heavy drug/alcohol using

community, establish clean and sober friends, clean and sober leisure activities, improved family relationships

Educational status: improvement aimed at completing GED, specialized vocational training, enrollment and completion of college courses

Employment skills: skills leading to getting and maintaining employment

## APPENDIX-continued

### SEATTLE, WA (KING COUNTY)

#### Policy/Law

In Washington there is a state statute<sup>9</sup> that authorizes and establishes a continuum of treatment for alcoholics and addicts within available funds. This statute also authorizes counties to establish alcoholism and other drug addiction program. In order to be eligible for state funding the county is also required to form an administrative board and appoint a county coordinator for alcohol and other drug services. The county alcoholism and other

drug treatment program, with the advice and guidance of the board, directs treatment services within that county (including prevention services).

Treatment is not mandatory but there is a provision in the law for involuntary detention for up to 72 hours if a person is found to be incapacitated or gravely disabled in a public place<sup>10</sup>, and for involuntary treatment of persons who meet certain criteria related to incapacity and grave disability<sup>11</sup>

#### Client assessment

Clients may be assessed by any state certified treatment agency. Publicly funded clients are assessed by the state Department of Social and Health Services for financial eligibility and by a designated Assessment Center for eligibility and need for treatment services. Clients must be chemically dependent and actively addicted (have used alcohol or drugs within the last 90 days) to be eligible for publicly funded treatment. The type of treatment, length of stay, and appropriate program are determined by an assessment of the client's use history, past treatment history, client needs, legal/criminal justice system obligations, and other social service needs using the American Society of Addiction Medicine (ASAM) Patient Placement Criteria.

#### Treatment system

Residential treatment services are contracted through the state Division of Alcohol and Substance Abuse. There are 5 public funded adult residential treatment programs in King County. Outpatient services are contracted with private non-profit community based treatment agencies. There are 10 public funded adult outpatient treatment agencies and 2 opiate substitution treatment programs in the county.

In addition to residential and outpatient treatment sites there are other specialized services for alcohol or drug addicted persons. A "Crisis Triage Unit" has been centrally located in the county's major hospital/trauma center (Harborview Medical Center) to address the crisis needs of persons who may be suffering from co-occurring disorders (mental health and substance abuse). This is a cooperative project between the hospital, mental health system and the chemical dependency system. The county contracts with a private non-profit agency for 45 publicly funded detoxification beds and 60 sobering support center beds. Case managers work with the chronic

<sup>9</sup> Title 70 Revised Code of Washington (RCW) Public Health and Safety, 70.96A  
Treatment for alcoholism, intoxication, and drug addiction

<sup>10</sup> RCW 70.96A.120

<sup>11</sup> RCW 70.96A.140

## APPENDIX-continued

recidivist clients in the sobering center. They assist clients in finding housing, income assistance, life skills and primary medical care needs. The county also operates an Emergency Service Patrol (ESP) van that picks up and transports publicly inebriated individuals to appropriate services (sobering support, hospital, shelters).

### Numbers of clients:

In 2001, 4,107 individuals were assessed. There were 26,415 admissions to the sobering support center of which 110 received case management services; the ESP van made 22,234 pick ups; approximately 2,250 clients received detoxification services; and around 8,600 clients received outpatient services.

### Costs:

These figures are estimated costs for 2001:

Assessment Center: 13 FTEs	\$1,105,000
Sobering Support Center (contracted)	\$1,200,000
Emergency Service Patrol 12 FTE	\$1,100,000
Detoxification Services (contracted)	\$1,700,000
Outpatient Services (contracted)	<u>\$2,100,000</u>
	<b>\$7,205,000</b>

### Success

King County's success is based on evidence and outcomes-based practices. The county requires contracted agencies to utilize client centered individually tailored treatment/care plans and to base treatment completion on progress made toward those mutually agreed upon goals in the treatment plan. With the chronic public inebriate population (CPI) the county strives to make a positive change in the individual's life through better living situations, income support, and greater self-determination. A reduction in the use of costly crisis and emergency services by CPI clients is also a measure of success.

In the county's most recent HUD Annual Progress Report they reported that 66% of the case managed clients (n=110) had maintained improved housing. The county projects that 40% of newly engaged case managed clients will attain improved housing situations. The county does not have a mechanism in place to track actual reduction in use of emergency/crisis services but on a case by case basis they can track some information. The county estimates that even a 10% reduction would be considered successful given the cost of ER visits and Fire/Paramedic response costs these days.

### Barriers to treatment

Some of the barriers encountered by the county involved efforts in providing the services needed by clients: lack of adequate funding; lack of available treatment resources (treatment on demand); lack of appropriate housing for our clients; and lack of funding for outreach and case management services.



**APPENDIX- continued****DENVER, CO (DENVER COUNTY)****Law**

State enabling legislation<sup>12</sup> mandated that the Alcohol and Drug Abuse Division (ADAD which is part of Dept. of Human Services), provide for the funding of treatment programs with federal and state dollars, develop and implement standards and regulations by which treatment programs are licensed, and maintain directories of

licensed treatment programs. Substance abuse treatment is voluntary in Colorado except in situations where courts have imposed treatment requirements (Driving Under the Influence/DUI, certain other drug related offenses, involuntary commitments).

**Assessment**

Licensed, funded treatment programs are required to use specific assessment and placement instruments. Non-funded licensed treatment programs are not required to use the same assessment and placement instruments as funded programs, but any instruments used must be ADAD-approved.

**Treatment**

Services provided within the network encompass traditional outpatient treatment, intensive outpatient treatment, day treatment, transitional residential treatment, therapeutic community, non-medical detox and intensive residential treatment and methadone maintenance.

**Number of clients:**

There are 253 alcohol and drug abuse treatment sites, and 451 sites specific to treatment for DUI (Driving Under the Influence). Denver serves approximately 70,000 drug and alcohol clients a year, and about 28,000 DUI clients per year.

**Cost**

According to Denver representatives, the 2001 CASA Columbia survey<sup>13</sup> ranked Colorado 49<sup>th</sup> of the 50 states in per capita spending on substance abuse prevention and treatment, at a "whopping 12 cents." The only state spending less per capita was Georgia, upon whom CASA had no information (California ranked 8<sup>th</sup> in

<sup>12</sup> Section 14-4-102 (13). Colo. Rev. Stat., §18-6-803.8(3)(a)-(c)(1999)

<sup>13</sup> The National Center on Addiction and Substance Abuse at Columbia University, 633 Third Avenue, 19th floor New York, NY 10017-6706, see "Shoveling Up: The Impact of Substance Abuse on State Budgets," January 2001, page 15.



## **APPENDIX- continued**

spending). Colorado has no Medicaid benefit for substance abuse treatment, except on a very limited basis for pregnant women and some medical detox.

### **Success**

Denver looks for a client treatment goal completion of 50%. However, their client treatment completion is around 68 to 75%.

### **Barriers**

Lack of resources, distance to treatment (rural), lack of transportation (rural and urban) and cost to clients (no free treatment in Colorado, though there is a sliding fee scale) are the major barriers to treatment.

## **PORTLAND, OR (MULTNOMAH COUNTY)**

### **Law**

Treatment is voluntary in Oregon unless the person is court mandated or referred by their probation officer. Sobering clients can also be taken in on a police hold. They have one clause in the administrative rules which states that police encountering people who are intoxicated and incapable of caring for themselves may take the person to jail, however, it goes on to say that the police can also take the person to the nearest appropriate treatment center and the treatment center must take the person.<sup>14</sup>

### **Assessment**

Multnomah County generally uses a tool called the Multnomah County Assessment 3 (MCA3) which is a compilation of several assessment tools. They also use the American Society of Addiction Medicine (ASAM)<sup>15</sup> criteria, and is used to measure severity of addiction and the level of treatment that the client needs. Oregon has adopted the ASAM to meet Oregon needs.

The county has 21 contracted agencies, which serve almost 18,000 unduplicated clients.

FY00-01

Adult beds-186 at a cost of \$6,602,700.

Outpatient 437 beds at a cost of \$1,083,228.

<sup>14</sup> Oregon Revised Statutes 426.460, Chapter 426 — Persons with Mental Illness; Sexually Dangerous Persons

<sup>15</sup> ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, (Second Edition — Revised): (ASAM PPC-2R) was released in April, 2001, 4601 North Park Ave, Arcade Suite 101 Chevy Chase, M.D. 20815

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## **APPENDIX- continued**

### **Success**

- Allowance for how funds flow from state to local areas, more flexibility allowed in designing services.
- Outpatient contracts have been restructured to allow providers to supplement the publicly funded rates.
- Dual diagnosis (integrated substance abuse diagnosis & mental health services) has increased funding for these services.

### **Barriers**

- Demand for treatment outstrips capacity—less than half (40%) of the adults seeking treatment get into treatment.
- Fewer than 1 in 7 adults seeking residential treatment get service.
- Recruitment and retention of qualified staff is a problem due to a non-competitive pay scale.

### **Under the Dual Diagnosis--**

- Inadequate data system to collect information on clients.
- Inadequate funding for subsidized free housing.
- There is insufficient funding for management of treatment houses.
- Lack of housing stock appropriate for treatment houses.

## **SAN MATEO**

### **Policy/Law**

According to representatives, the county's strategic plan includes a comprehensive needs assessment and the data indicates that substance abuse among adults and adolescents is correlated to increases in arrests, domestic violence, and other problems. According to county representatives, efforts to prevent, intervene, and treat the problems caused by substance abuse in San Mateo County are inadequate. However, their plan identifies the problems and barriers and has developed priority projects for funding. County stakeholders are now requesting major systemic changes, improving the interdisciplinary response, responding to new threats such as the methamphetamine crisis, and help in removing barriers to implementation.

### **Client Assessment**

The county needs assessment aims to describe the nature and scope of alcohol and drug problems in San Mateo County. A variety of data indicators are reviewed to describe and quantify the overall problem, current trends,

## APPENDIX- continued

and issues for specific sub-populations. They summarize the assessment into six major groups of indicators of alcohol and drug problems:

1. Alcohol and Drug Treatment Indicators
2. Health Indicators
3. Hospital Utilization Indicators

Criminal Justice Indicators

4. Motor Vehicle Indicators
5. Adolescent Alcohol/Drug Use Indicators

The indicators highlight a number of local issues.

Waiting Lists: State reports<sup>16</sup> have noted that San Mateo County has the second longest waiting time for alcohol/drug treatment services of the 15 largest California counties (San Francisco ranks 10<sup>th</sup>). Each month there are 300-500 persons on waiting lists for treatment modalities such as residential detoxification, residential, treatment, and outpatient treatment.

Dual Diagnosis Clients: National data (See CALDATA) show that dual diagnosis with a mental disorder and San Mateo County has the lowest number of alcohol/drug treatment slots per 100,000 population of the 15 largest California counties. San Mateo has 11 slots per 10,000 population, compared with the statewide average of 28.

### Treatment/clients

In an effort to reduce the waiting list length and time, funding for a treatment readiness program is being instituted. The design of this readiness program includes both a Center that will provide treatment readiness services such as large group, assessment, case management, referral and linkage to treatment, and funding for the participating treatment agencies to increase their capacity to provide pre-treatment groups for the clients waiting to receive services at their particular agency. The advantage to this type of program is that the client is immediately engaged in services, matched to the appropriate level of service, and clients with complex needs can receive case management or other services to help ready themselves for substance abuse treatment.

Comprehensive assessments are conducted using the Addiction Severity Index. Clients with 2 mental health problems will receive substance abuse as well as mental health assessment services. The client continues to receive group and individual therapy at either the treatment readiness program at the treatment site. Referrals are objective and driven by the needs of the clients and appropriate to the level of service required. An 800 number access system may be developed, the center will be family friendly and provide family assessments, education regarding County Alcohol and Drug Services (AOD) and other issues. Completion target is for FY03.

The San Mateo County Mental Health System has about 4,000 clients per year who are seriously mentally ill. Approximately 2,000 are dually-diagnosed with mental illness and substance abuse disorders, yet the County has little capacity to effectively serve this population. AOD treatment providers lack mental health expertise;

<sup>16</sup> "California Counties, A Look at Program Performance," Legislative Analysts' Office May 1998.

## APPENDIX- continued

mental health providers lack AOD expertise. There is no case management program for dually diagnosed clients, despite their need for multiple services. County treatment services designed for this population is minimal. There is no men's residential treatment, and there is no substantive program for individual outpatient counseling. Dual-diagnosis patients have a poorer prognosis and are nearly twice as likely to be re-hospitalized during one-year follow-up.

According to the County, clients may receive services for their mental illness, but not for their substance abuse problem (or vice versa), and the disorder results in high rates of recidivism either in the form of re-admission to mental health services or substance abuse services. The county proposes a project addressing the dual-diagnosis treatment capacity problem by implementing an integrated dual-diagnosis treatment system following the guidelines of the national Center for Substance Abuse (CSAT) Treatment Improvement Protocol 9 and incorporating the experience of the San Mateo County treatment providers. The proposed program will be a collaboration between the County Mental Health Services Division and Alcohol and Drug Services. The new program will provide intensive case management and dedicated dual-diagnosis residential and outpatient treatment. The programs will be staffed by people who will receive training in both mental health and substance abuse treatment for dual-diagnosis clients. Contracting for services with the County's diverse providers will aid the project in addressing the range of race, cultures, and ethnicities in the County. The outcome evaluation will measure the increase in treatment capacity for dual-diagnosis clients and assess treatment effectiveness, including changes in alcohol and drug use, physical and mental health, employment and social functioning, retention in treatment and treatment completion, and service utilization.

### Post-Incarceration Treatment Capacity Expansion

San Mateo County releases approximately 6300 inmates from incarceration every year. Approximately 5040 of these need AOD treatment, but the County staff in the jail system can place only 70 clients per year in drug treatment after incarceration. According to the County, the reason is that they lack the capacity to assess, case manage, temporarily house, and treat this population. The County proposes to implement a linked set of services, following the best practices as recommended in CSAT Treatment information Protocols. Case managers will meet inmates immediately on release, conduct assessments, create a transition plan, and case manage to ensure the plan's implementation. A six-bed transitional housing facility, with some AOD services, will be established to house and support inmates while treatment and longer-term housing is arranged.

Programs will focus on life transition issues, including finding employment. The programming configuration will promote transition; for example, the programs will offer services in the evening so that during the day clients can look for work and then work at the jobs they find. Psychiatric coverage will be provided to better serve dually-diagnosed clients. Evaluation will assess a variety of outcomes including increased rates of abstinence from AOD, reduced recidivism (re-arrest and re-incarceration), improved functioning in mental health, employment, and social and family functioning, increased retention in treatment and treatment completion, and reduced utilization of services overall.

## **APPENDIX- continued**

### **Success/cost**

Reduced waiting time from 50 days in April 1997 to 19 days in July 1999 and increased slots from 1 per 10,000 population in April 1997 to 17 per 10,000 in July 1999.

Created a new modal, "Treatment Readiness," for clients on wait lists, which often get discouraged and disappear. These outpatient supportive services help to engage the client until they can be admitted to treatment

Utilized \$1.5 million in county expansion funds to substantially increase services in the modalities of treatment readiness (477 clients per year), outpatient (378 per year), 94 residential beds.

Obtained \$2.1 million in grants to further expand substance abuse treatment services (549 clients in outpatient services and 80 residential beds) for Latinos, Native Americans, drug court clients and difficult to treat metamphetamaine users.

### **Barriers**

The San Mateo County AOD Treatment System has a basic continuum of services, but several key modalities are missing and capacity does not match the demand. Most, if not all, of the community-based treatment agencies need enhancements to their existing service delivery system (i.e., add case managers/aftercare services/pre-treatment). Some of the services do not exist currently, such as medical detoxification services.

There are a number of reasons why the gaps are so severe:

- Prevention and early intervention funds have historically been limited.
- Funding limitations have limited the county's ability to address long-standing needs for AOD specific services.
- The demand for treatment is increasing as collaboration improves among systems dealing with substance abuse (criminal justice, mental health, primary health, hospital services).

Many problems are due to complex rules and regulations, NIMBY (Not in my backyard) problems, finding space that is affordable and managing unique regional concerns.

The county believes that the costs of untreated substance abuse are "staggering and are felt in areas such as health, criminal justice, HIV services, mental health, and other areas." They reason that for every dollar spent on substance abuse treatment; at least seven dollars are saved in other areas such as criminal justice or health.<sup>17</sup>

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<sup>17</sup> (see California Drug and Alcohol Treatment Assessment/CALDATA. Assistant Secretary for Planning and Evaluation (ASPE) is the principal advisor to the Secretary of the U.S. Department of Health and Human Services. Website: [aspe.hhs.gov](http://aspe.hhs.gov))





LEGISLATIVE ANALYST REPORT DOCUMENTS DEPT.

TO: The Honorable Members of the Board of Supervisors  
FROM: Adam Van de Water, Legislative Analyst  
DATE: April 18, 2002

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ISSUE: Discount Prescription Drugs for Low-Income Seniors (File No. 020175)

SUMMARY OF REQUEST

The Board of Supervisors, through Supervisor Sandoval, requested that the Office of the Legislative Analyst conduct a survey of municipalities and states, with a particular emphasis on Florida, Maine, Massachusetts, and Oregon to examine programs that reduce prescription drug costs for seniors.

EXECUTIVE SUMMARY

This paper discusses the primary prescription drug benefits currently available to seniors under federal, state, and local law and finds that many eligible beneficiaries are not currently receiving the benefits to which they are entitled. As discussed in the following sections, the primary benefit for seniors is the state *Discount Prescription Medication Program* (SB393) which extends to all Medicare beneficiaries discounts previously only given to the indigent and disabled through the state's Medicare program, Medi-Cal. Passed in late 1999, the bill has saved seniors an average of 20-25 percent off the retail prescription price.

However, many eligible recipients are not currently receiving the benefit of this new program. A March 14 article in the *New England Journal of Medicine* found that only 84 percent of pharmacies in the Bay Area provided the discounts offered by SB393 and only 63 percent did so prior to the customer explicitly requesting the Medicare discount.

As a first step, this paper therefore recommends that the Board facilitate an outreach program to increase utilization of this state benefit. This could take one of two forms: requiring area pharmacies to post signs about the availability of the program as proposed in SB1278 currently in the California Senate, or conducting a targeted education effort in homeless clinics, senior centers and other points of contact with the elderly and indigent populations.

As a second step, the Board may wish to consider urging the state legislature to adopt one of the many successful programs currently available in other states. This could include:

- Creating a not-for-profit to negotiate with pharmacy benefit managers to receive discount prescription drug prices (such as in Iowa);

- Teaming with other jurisdictions to form a collective purchasing pool to benefit from economies of scale and improve access to discounted drugs (such as in Arizona, Massachusetts, New Mexico, Texas, and West Virginia); or
- Using general funds, tobacco settlement money, or lottery proceeds to further subsidize low-income seniors' pharmaceutical costs (such as in Florida, Maine, Maryland, Massachusetts, Michigan, Oregon and Pennsylvania).

See Appendix A for a description of related programs in ten other states.

## OVERVIEW

### **The Problem – High Prescription Drug Costs**

Health-care spending for seniors has risen steadily over the past decade due in part to annual average increases in prescription drug costs of ten to twelve percent or more<sup>1</sup>. Not only are average costs increasing, but the incidence and prevalence of chronic conditions (asthma, diabetes, arthritis, etc) has increased, as have diagnoses of these conditions and drug manufacturers marketing of their drugs to these conditions. In other words, not only are patients paying more per prescription drug but they are now filling more prescriptions on average and feeling more pressure to take advantage of the newest and most expensive drugs.

As the average senior takes four prescriptions per day and spends about ten percent of their total health care costs or \$1,205/year for prescriptions, some seniors are finding that they must make difficult economic choices<sup>2</sup>. While the majority of seniors still find ways to pay their prescription drug costs, many have found that their fixed incomes cannot keep pace with the steadily rising costs of prescription drugs. As a result, these individuals have reduced their dosages, under-filled their prescriptions, sought less costly and typically less effective therapies, foregone other necessities and/or stopped taking their medications entirely.

This is particularly true for the 11,454 low-income seniors in San Francisco.<sup>3</sup> Eleven percent of the 106,000 San Franciscans over the age of 65 now live below the federal poverty level (or FPL<sup>4</sup>, a total increase of 13% since 1990<sup>5</sup>) and nearly one in three retired Americans have absolutely no prescription drug coverage<sup>6</sup>. For those beneficiaries able to afford supplemental coverage, nearly one in three insurance plans capped drug-benefit payments at \$500 per year in 2000, far less than the out-of-pocket costs for most beneficiaries.<sup>7</sup>

<sup>1</sup> See the National Institute for Health Care Management Research and Educational Foundation.

<sup>2</sup> Recent research supports this finding. The U.S. Department of Health and Human Services (HHS) recently found that Medicare beneficiaries with prescription drug coverage fill nearly one-third more prescriptions and have lower out-of-pocket expenses than seniors without coverage.

<sup>3</sup> Source: U.S. Census Bureau 2000 figures for the population over the age of 65 and under the federal poverty level.

<sup>4</sup> The federal poverty level for an individual, as of the latest federal announcement 2/14/02, is \$8,860 per year.

<sup>5</sup> This is particularly noteworthy as the percentage of the San Francisco population with poverty status declined for every other category examined.

<sup>6</sup> U.S. Department of Health and Human Services and the National Committee to Preserve Social Security and Medicare. The remaining two-thirds receive employer-sponsored, Medigap, or Medicaid insurance coverage.

<sup>7</sup> U.S. Department of Health and Human Services. The California Health and Human Services Committee further found that last year, half of Medicare members nationwide spent at least \$1,000 out-of-pocket on prescription drugs and one in ten spent at least \$4,000.



### The Response – State, Federal and Local Programs

In response, the federal government, 31 states and a handful of counties now have discount prescription drug programs that serve the low-income and senior populations and Congress is currently considered adding additional programs<sup>8</sup>. The majority of these programs aim to provide coverage to the most vulnerable populations: low-income individuals without other health insurance and individuals with chronic, contagious or preventable diseases such as AIDS, black lung, or hemophilia. Currently existing programs are summarized below and presented in order by federal, state, and county jurisdiction.

#### FEDERAL – SECTION 340B

##### Federal Discounts for the Most Vulnerable

Program Name	Population Served	Rx Drug Benefit	Administrator
Section 340B	“Vulnerable”: homeless clinics, AIDS patients, hemophiliacs, Native Hawaiian Health Centers, family planning clinics, etc.	Savings of ~54% below wholesale prices	HHS, distributed through “covered entities”

The primary federal legislation regarding prescription drug costs is Section 340B of the Public Health Care Act of 1992, which only serves seniors who qualify as low income or otherwise ‘vulnerable’. Section 340B requires pharmaceutical companies who wish to do business with Medicaid (the federal insurance safety net for the indigent and disabled) to offer deep discounts on certain outpatient drugs to “covered entities”<sup>9</sup>. Only patients of these covered entities – patients of homeless clinics and public housing primary care clinics, patients with AIDS, kidney failure, black lung, hemophilia, tuberculosis or patients of Native Hawaiian or Native American ancestry – are eligible to receive the discount. In San Francisco this law applies to San Francisco General Hospital, UCSF, the Haight-Ashbury Free Medical Clinic, health centers run by the Department of Public Health and other similar locations. Administered by the federal Office of Pharmacy Affairs (OPA) in the U.S. Department of Health and Human Services (HHS), the law affects over 8000 participating government sponsored entities and close to 600 pharmaceutical companies nationwide. As no records are maintained of all 340B recipients, the Office of the Legislative Analyst could not find estimates of the number of participants in the program.

Pharmaceutical prices available under Section 340B are significantly lower than both retail and wholesale prices. For most drugs, the discount is equivalent to the Medicaid rebate amount

<sup>8</sup> There is currently an effort to add a prescription drug benefit to the Medicare program but an intense debate about the cost, scope and structure of such a benefit has stalled action.

<sup>9</sup> A “covered entity” as defined by Section 340B includes federally-qualified health centers; entities receiving 340A grants or providing outpatient early intervention services for HIV disease, sexually transmitted diseases, or tuberculosis; family planning projects; state-operated AIDS drug purchasing assistance programs; black lung clinics; hemophilia diagnostic treatment centers; Native Hawaiian Health Centers; urban Indian organizations; and hospitals defined in section 1886(d)(1)(B) of the Social Security Act.

which, based on a recent analysis of 200 popular outpatient drugs, has averaged 54 percent below average wholesale prices.<sup>10</sup>

### STATE

Four bills by State Senator Jackie Speier govern the distribution and pricing of discounted prescription drugs in California. Two (SB340 and SB696) have not yet been implemented, the third (SB393) extends Medi-Cal discounts to all Medicare beneficiaries, and the fourth is currently under consideration by the California Senate.

SB340 increases patient access to Section 340B discounts by allowing covered entities to contract out the distribution of their drugs to outside pharmacies. SB696, the *Golden Bear State Pharmacy Assistance Program*, seeks to leverage the state's bulk purchasing power to negotiate additional voluntary rebates with individual pharmaceutical companies (see Appendix A for a description of these and other state discount programs).

#### **Aiding the Elderly in California – SB393**

<b>Program Name</b>	<b>Population Served</b>	<b>Rx Drug Benefit</b>	<b>Administrator</b>
<i>Discount Prescription Medication Program</i> (SB393)	Medicare beneficiaries. (>65 or with certain disabilities)	Average savings of ~20% to 25% below retail prices	DHS and local pharmacies

The *Discount Prescription Medication Program* extends the benefits of Medi-Cal discounts – previously available only to eligible low-income children, their parents, and aged, blind, or disabled individuals – to all Medicare beneficiaries (those individuals age 65 or older or with certain designated disabilities). The bill – SB393, passed in October of 1999 and similar to programs in Maine, Maryland, and Vermont – limits the price that pharmacies can charge these beneficiaries for prescription drugs as a condition of a pharmacy's participation in the \$27.2 billion Medi-Cal program. Under the program, beneficiaries simply show their Medicare card and prescription to receive the discounted Medi-Cal reimbursement rate.<sup>11</sup> According to Sen. Speier's office and the Department of Health Services, more than one million Californians have fulfilled approximately 800,000 prescriptions per month and saved an average of about 20-25% below the retail price as a result of SB393. This bill is scheduled to sunset January 1, 2003 (though SB1278, if passed as expected, would remove the sunset provision. See "Extending the Benefits" below).

However, a March 14 study by the New England Journal of Medicine shows that SB393 has not been fully implemented by pharmacies. The study found that while 84 percent of pharmacies in the Bay Area provided the discounts offered by SB393, only 63 percent did so prior to the customer explicitly requesting the Medicare discount and only 10 percent offered the discount when the drug's price was first requested. According to the San Francisco Chronicle, "the

<sup>10</sup> For more information on Section 340B, contact the Public Hospital Pharmacy Coalition.

<sup>11</sup> This discount would presumably also lead to savings of 54% off the wholesale price, minus an amount (currently 15 cents) to cover electronic transmission costs.

compliance problem may reflect the fact that the discount, which is based on Medi-Cal prices, must be shouldered by the pharmacy.”

Medicare beneficiaries are not accustomed to showing their card to the pharmacist (Medicare does not pay for prescription drugs) and the law does not require pharmacists to offer the discount prior to being presented with a Medicare card. As a result, many eligible recipients do not know to ask for the discount and are not, therefore, currently receiving the benefits of this program. The study found that this is especially true for those who use independent pharmacies or who live in low-income neighborhoods. According to the study,

...independent pharmacies, which do not benefit from economies of scale or from the sale of non-pharmaceutical merchandise, may find it more difficult to comply with Senate Bill 393. Because independent pharmacies are disproportionately located in low-income neighborhoods, the potential savings from discounts under Senate Bill 393 may be least likely to reach the people who need them the most.<sup>12</sup>

#### **Extending the Benefits and Requiring Posting – SB1278**

A bill currently under consideration in the state Senate would indefinitely extend the provisions of SB393 beyond its January sunset date and would address the above implementation hurdle by requiring the Department of Health Services (DHS) to conduct an outreach program to inform Medicare beneficiaries of this program. The bill, as amended March 7, requires DHS to post current Medi-Cal reimbursement rates for 200 of the most commonly prescribed medications on its Web site as well as provide signs to be prominently displayed in participating pharmacies advertising the availability of the SB393 program. Should the bill pass as expected, state jurisdiction would pre-empt any program established by the Board of Supervisors.

#### **COUNTY**

The majority of discount prescription drug programs occur at the state and federal level where Medicare and Medicaid are administered. However, San Francisco does have a county-supported benefit program for low-income residents. A limited survey of other counties in the state suggests that counties do not commonly offer their own prescription drug discount programs other than targeted emergency and public health services. One exception may be Alameda County, which coordinates individual benefits offered by the manufacturers themselves. However, the Office of the Legislative Analyst was not able to find another county that uses general fund money to subsidize the cost of providing prescription drugs.

#### **Help for San Francisco's Poor – the Community Health Network**

<b>Program Name</b>	<b>Population Served</b>	<b>Rx Drug Benefit</b>	<b>Administrator</b>
Community Health Network	Low-income CHN patients without other insurance coverage	Prescriptions provided free of charge or for a low co-payment depending on income.	Pharmaceutical Care Network

<sup>12</sup> New England Journal of Medicine, Vol. 346, No. 11. March 14, 2002.

In addition to the programs outlined above, the City and County of San Francisco's Community Health Network (CHN) has a discount prescription drug program for indigent patients of CHN clinics. CHN patients who (1) are ineligible for Medi-Cal coverage, (2) have no prescription drug insurance, (3) meet the basic eligibility requirements of Medicare, and (4) make less than 500% of the FPL, are eligible to receive financial assistance with their prescription drug costs. CHN patients who earn less than 200% of the FPL receive prescriptions free of charge and recipients who earn between 200% and 500% of FPL are requested to pay the pharmacy a co-payment of \$2 per prescription for a maximum of \$10 per visit. This co-payment is waived for individuals unable to afford the payment. Paid from the city and county's general fund, the program benefits approximately 7,300 low-income patients per month.

### OTHER STATES

According to a February 2002 report by the National Conference of State Legislatures, the majority of state legislatures are working on the broad issue of rising pharmaceutical costs and prices. Partly as a result of major attention to prescription drug legislation in 2000-2001, a total of 31 states have enacted or authorized some type of program. This number includes 26 states<sup>13</sup> with discount or price-related laws as well as five states<sup>14</sup> with other discount approaches. Three states in addition to California – Maine, Maryland and Vermont – have passed laws similar to SB393 to provide Medicare beneficiaries with discounted prescription drug prices based on prices in the Medicaid program.

The majority of state programs extend federal Medicaid, Medicare and 340B coverage to cover the most vulnerable and underinsured population: low-income seniors. Florida, Iowa, Maine, Massachusetts, Michigan, New York, and Pennsylvania, for example, all have existing programs that augment federally available discounts on prescription drug costs. However, as outlined in Appendix A, none of these programs appear to extend benefits further than California's SB393 program.

### RECOMMENDATION

A first step to address San Francisco's under-enrollment in state, federal and county discount prescription drug programs is to address the general public's lack of awareness of the specific benefits available to them. A targeted outreach effort to address this problem could take one of two forms:

- (1) The Board could urge the state legislature to pass SB1278 requiring pharmacies to either publicly post or verbally communicate the availability of these existing programs. Much like a Board-approved liquor license in a restaurant or bar, pharmacies would be required to post visible signs provided by DHS at their drug

<sup>13</sup> The 31 states are Alaska, Arkansas, California, Connecticut, the District of Columbia, Florida, Idaho, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Wyoming

<sup>14</sup> The five states are Georgia, Iowa, New Hampshire, Washington (ended 6/2001 due to a court ruling) and West Virginia.

counters advertising the availability of the programs. These signs would instruct them to ask their pharmacist whether they are eligible for Medicare discounts under SB393.

- (2) The Board could also utilize existing channels of communication to low-income and elderly populations to advertise their eligibility to receive prescription drug discounts. For example, the Board could reach the city's senior population through postings at senior centers and advertisements on the city's cable access television station City Watch before or after public meetings. Similarly, the Board could reach low-income populations through postings at homeless shelters, community clinics and points of contact for social services. These latter postings could highlight not only SB393 benefits for Medicare beneficiaries but also CHN benefits available through the county and Section 340B benefits available through certain clinics and hospitals.

Outreach expenditures to increase enrollment may be eligible for federal or state reimbursement. For example, California Welfare and Institutions Code Section 14132.44 and Section 14132.47 authorize the state Department of Health Services to reimburse municipalities for their outreach efforts given certain conditions. Implementing these or other outreach measures, therefore, may be revenue neutral to the city.

As a second step, the Board may wish to consider urging the State Legislature to adopt one of the many successful programs currently active in other states. Whether to adopt this recommendation is a policy issue for the Board of Supervisors. This could include:

- Creating a not-for-profit to negotiate with pharmacy benefit managers to receive discount prescription drug prices (such as in Iowa);
- Teaming with other jurisdictions to form a collective purchasing pool to benefit from economies of scale and improve access to discounted drugs (such as in Arizona, Massachusetts, New Mexico, Texas, and West Virginia); or
- Using general funds, tobacco settlement money, or lottery proceeds to subsidize low-income seniors' pharmaceutical costs (such as in Florida, Maine, Maryland, Massachusetts, Michigan, Oregon and Pennsylvania).

See Appendix A for a description of related programs in ten other states.

### CONCLUSION

Several programs exist at the state, federal and county level to provide discount prescription drug costs to low-income and elderly Californians. Section 340B of the Public Health Care Act of 1992, California SB393 and the San Francisco Community Health Network all provide prescription drug benefits for eligible low-income and elderly patients as discussed above. One problem preventing full implementation of these programs, however, is the fact that the state does not currently conduct advertising or outreach to encourage eligible recipients to enroll in these programs.

Without widespread public knowledge of the new and complex programs that exist to help low-income and senior populations, many San Franciscans will continue to overpay for prescription drugs and may under-fill their prescriptions as a result.



## APPENDIX A: SELECTED STATE PRESCRIPTION DRUG DISCOUNT PROGRAMS

<i>State</i>	<i>Program</i>
California	In October of 2001, Senator Speier passed <b>SB340</b> to remove a significant barrier preventing outpatient pharmacies (e.g. Walgreens or Longs Drugs) from entering into contracts with covered entities without in house pharmacies to distribute Section 340B discounted drugs. However, according to the Community Health Network Director of Pharmaceutical Services Sharon Kotabe, "no covered entity has yet implemented the drug distribution systems permitted by this legislation - due, I believe, to reluctance on the part of local pharmacies to participate. (One of the major objections of local pharmacies is the requirement to maintain separate physical inventories of drugs.)"
	In October of 2001, Senator Speier passed SB 696, which established the <b>Golden Bear State Pharmacy Assistance Program</b> to further discount the price of prescription drugs for Medicare beneficiaries. Depending on manufacturer participation and the extent of the discount offered, this voluntary program could lead to further discounts of between 5% and 15% when the program becomes effective early in the summer of 2002..
	See <i>State</i> section above for a description of <b>SB393</b> .
Florida	The <b>Prescription Affordability Act for Seniors</b> (SB 940) uses the state's general fund to pay Florida residents age 65 and over with incomes between 90% and 120% of the federal poverty level (FPL) who are eligible for both Medicare and Medicaid up to \$80/month for pharmaceutical expenses. The approximately 20,500 participants in the program must make a 10% co-payment for each prescription purchased and the medications must be covered under the Medicaid program.
	HB69 allows four specified generic drugs to be routinely substituted by pharmacies for higher-priced brand name products, unless the doctor states the brand version is "medically necessary."
Iowa	The <b>Iowa Priority Prescription Savings Program</b> is the latest state program to offer discount cards to residents. Begun January 2, 2002 by the not-for-profit Iowa Prescription Drug Corporation, every Medicare-eligible Iowan may receive discounted prescription prices for an annual individual membership fee of \$20. Discounts will vary by medication. The not-for-profit negotiates discounted prescription costs with pharmacy benefit managers (PBMs) rather than trying to set mandatory price reductions. The Iowa Priority program also does not require pharmacies to absorb prescription medication discounts. Finally, the program offers a free comprehensive review (called the Brown Bag Assessment Program) of all prescription medications, over-the-counter and herbal remedies taken by a member. See <a href="http://www.iowapriority.org">http://www.iowapriority.org</a> .
Maine	The <b>Low Cost Drugs for the Elderly or Disabled Program</b> uses an annually issued "drug card" for elderly and disabled patients to use at any Medicare participating pharmacy. The state uses general funds to pay 80% of the cost of all generic drugs as well as a specified list of drugs for chronic conditions. The approximately 46,000

	<p>patients with incomes below 185% of FPL pay \$2.00 or 20%, whichever is greater, for each filled prescription. Maine also has an emergency expenditure provision. After the expenditure of \$1000 for the year on prescription drugs, all prescription drugs cost the user only 20% or \$2.00, whichever is greater.</p> <p>The <i>Healthy Maine Prescription Program</i> allows the approximately 108,000 Medicare enrollees earning up to 300% of FPL to buy pharmaceuticals at the discounted Medicaid price for an annual administrative fee of \$25.</p>
<b>Maryland</b>	<p>The 1979 <i>Maryland Pharmacy Assistance Program</i> (MPAP) subsidizes prescription drug costs for low-income individuals of all ages. Using state general fund revenues to support the program, the nearly 36,000 participants who earn less than 126% of the poverty level<sup>15</sup> pay only a \$5 co-payment for prescriptions with no annual cap on benefits.</p> <p>The state also supports Medicare recipients (those over age 65 or with certain disabilities) earning up to 300% of the poverty level through the 2000 <i>CareFirst Plan</i>.<sup>16</sup> These roughly 1,700 beneficiaries pay monthly premiums of \$10 as well as co-payments of \$10-35 and receive annual prescription drug benefits worth up to \$1,000.</p>
<b>Massachusetts</b>	<p>The <i>Prescription Advantage Program</i> uses tobacco settlement funds and tobacco tax revenue to pay for all prescription drugs for individuals over age 65 and low-income disabled individuals. Co-payments, premiums and annual deductibles are all based on a sliding scale and individuals earning less than 188% of FPL are exempted from paying a premium or deductible.</p>
<b>Michigan</b>	<p>The <i>Elder Prescription Insurance Coverage Program (EPIC)</i> uses tobacco settlement funds to cover individuals age 65 or over with income up to 200% of FPL who do not currently receive any other form of prescription drug coverage. The State of New York has a very similar program that impacts nearly 235,000 people with incomes up to 395% of FPL.</p>

<sup>15</sup> Individuals earning less than 116% of FPL with assets up to \$3,750 and married couples earning less than 126% of FPL with assets up to \$4,500.

<sup>16</sup> Also known as the *Short-Term Prescription Drug Subsidy Plan*.



Oregon	<p>The <i>Senior Prescription Drug Assistance Program</i> uses cigarette tax revenues to subsidize up to 50% of the Medicaid price of the prescription drug or a maximum of \$2000 annually, using a sliding scale based on the income (not more than 185% of FPL) and resources (not more than \$2000 per enrollee not including home or car) of an enrollee.</p> <p>The <i>Patient Assistance Program</i> creates an additional program through the College of Pharmacy at OSU to assist low-income Oregonians in gaining access to prescription drug assistance programs offered by pharmaceutical companies if they are not eligible for publicly funded prescription drug benefits.</p>
Pennsylvania	<p>One of the oldest and largest drug-subsidy programs is <i>Pennsylvania's Pharmaceutical Assistance Contract for the Elderly</i> (PACE) program. Established in 1984, it provides comprehensive drug coverage to seniors with incomes below \$14,000 for singles and \$17,200 for married couples. Enrollees receive prescription medications from participating pharmacies for \$6 per prescription. There are no deductibles and there is no maximum yearly benefit. The program is funded through the Pennsylvania lottery.</p> <p>The state also established a companion program called <i>PACENET</i> in 1986 that provides catastrophic drug coverage for seniors with incomes up to \$16,000 for singles and \$19,720 for couples. This program requires a \$500 yearly deductible, as well as co-pays of \$8 for generic drugs and \$15 for brand-name drugs.</p>
Vermont	<p>The <i>Pharmacy Best Practices and Cost Control Program</i> authorizes a pharmacy benefit manager to develop a "preferred list" or formulary for prescription drugs as well as seeks to expand and develop federally-qualified health centers.</p> <p>The <i>Vermont Health Access Program</i> and <i>VSCRIPT</i> provide a Medicaid-funded prescription drug benefit to Medicare beneficiaries with incomes up to 150% of the FPL (or 225% of FPL if maintenance drugs are required). Beneficiaries pay a \$24 annual fee.</p>



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## LEGISLATIVE ANALYST REPORT

AUG 22 2002

TO: Honorable Members of the Board of Supervisors  
FROM: Jesse Martinez  
DATE: August 9, 2002  
SUBJECT: Motorcycle Assessment/Methodology, File# 021142

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### SUMMARY OF REQUESTED ACTION

A motion (introduced by Supervisor Gonzalez) requesting the Office of the Legislative Analyst (OLA) to prepare a report analyzing methodology used to determine the number of motorcycles in San Francisco, both those registered in the City and elsewhere, and how other municipalities arrive at those counts.

### EXECUTIVE SUMMARY

Our office conducted an expedited and thorough analysis of how other jurisdictions<sup>1</sup> determine their number of registered motorcycles. We discovered that the majority of jurisdictions surveyed do not have written policies or procedures for determining the number of registered motorcycles. Nor do these jurisdictions have mechanisms for planning on-street motorcycle parking spaces. Instead, we found that they create motorcycle-parking spaces on an as needed basis. Typically, they are created at the request of residents and businesses. Cities such as San Jose and Montclair have having motorcycled designated spaces for off-street parking.

Utilizing the San Francisco Elections Department (SFED) redistricting data, including the zip codes, which overlap numerous, Supervisorial Districts, we identified Supervisorial Districts with the most number of DMV-registered motorcycles. According to this preliminary analysis, the bulk of motorcycle registrants indicated their addresses as being within District 2 (15%),

<sup>1</sup> Boston, MA, Chicago, IL, Philadelphia, PA, Seattle, WA, and 18 California cities: Chula Vista, CA, Corona, CA, Dixon, CA, Fresno, CA, Gardena, CA, Glendora, CA, Los Angeles, CA, Madera, CA, Montclair, CA, Mountain View, CA, Oakland, CA, San Diego, CA, San Jose, CA, Riverside, CA, San Luis Obispo, CA, Santa Maria, CA, Temecula, CA, Truckee, CA

<sup>2</sup> Monday April 1, 1974, file#19-74

District 5 (14%), and, District 7 (15%) (See Appendix III). Data from DPT indicates that the majority of motorcycle spaces are in Districts 3 and 6 (See Appendix IV).

## BACKGROUND

Motorcycle related concerns are a topic confronting San Francisco for some time. The City has focused on this issue from time to time in a reactive manner and on various issues. The issues varied from 'complaints from residents regarding problems caused by motorcycles,'<sup>2</sup> to special parking spaces for motorcycles.<sup>3</sup> The process of identifying, assessing, and meeting the parking needs of the City's motorcycle residents continues in various forms. A decade ago, issues of parking meter zones for motorcycle surfaced<sup>4</sup> and are present today. Thus, data informing policy makers on the number and types of vehicles registered in the City is important in evaluating constituent concerns.

The California Department of Motor Vehicles (DMV) is the designated entity for the registration of vehicles allowed to operate within the State jurisdiction. However, the California Vehicle Code<sup>5</sup> grants California municipalities the power to regulate parking programs within their respective jurisdictions.

Recently, there appears to be resurgence in the parking issue for motorcycles. Indeed, the data from DMV and San Francisco Department of Parking and Traffic (DPT) reflects a rise of City total motor vehicle registration of 3% since July 1999. While, the motorcycle registration increase is slightly higher at 5%. The automobile registration increased by 3% during this period (see Appendix I). This implies a corresponding growth in use and demand for facilities, including parking.

## CURRENT LAW AND PRACTICE

The California DMV is the designated entity to register a vehicle in California and shall keep a record of each vehicle registered.<sup>6</sup> As noted above, the California Vehicle Code grants California municipalities the power to regulate parking programs within their jurisdictions.

Section 27 of the City's Traffic Code contains the rules and regulations for governing special parking zones for motorcycles in San Francisco. This Section authorizes the Board of Supervisors, after traffic survey is conducted and a public hearing is held, to designate non-metered motorcycles spaces.

For metered parking, Section 219 of the San Francisco Traffic Code authorizes the Executive Director of DPT to designate metered motorcycle-parking spaces. According to DPT, these

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<sup>3</sup> File #19-74-393

<sup>4</sup> March 13, 1978, File# 19-78-293

<sup>5</sup> File #307-84-13, August 20, 1984

<sup>6</sup> California Vehicle Code 22507

<sup>7</sup> Vehicle Code Section 1800-1825

requests are typically initiated by business owners fronting the requested area and are routinely approved by the Director. These requests do not require Board of Supervisors approval.

Currently, no policy exists in San Francisco for determining the citywide number of registered motorcycles. However, the Legislative Analyst Office prepared an analysis for the benefit of the Board (See the Analysis Section of this report for details).

## ANALYSIS

### *San Francisco*

The San Francisco policy concerning motorcycle parking is to “promote uniformly efficient and safe use of streets for public street purposes.”<sup>7</sup> According to DPT, their “Motorcycle Parking, Petition for Designated Spaces,” reflects the City’s policy on this issue:

- For pedestrians, motorcycles will be less likely to park on sidewalks.
- For motorists, motorcycles will be less likely to take on-street parking from automobiles.
- For motorcyclists, motorcycles will have a safer, legal place to park with less likelihood of damage from car bumpers.
- For property owners, motorcycle parking can help to frame the edge of a driveway and lessen the chance of driveway blockage from illegally parked cars.

Indeed, nationally there is a consensus that efforts to arrange for proper parking reflect proficient use of the streets and advance safe streets.<sup>8</sup> These organizations believe that promoting motorcycle use and appropriating adequate parking is an environmentally-friendly means of transportation, and, an option for curbing traffic density and easing congestion in our towns and cities. The proponents of motorcycles believe that space-efficient vehicles that require less land use than other modes, and need less than a fifth of the space taken up by cars for parking, makes them more attractive in land-sparse cities.<sup>9</sup>

According to the DMV, in 1999, there were 15,453 motorcycles registered in San Francisco representing 4% of all motor vehicle registrations. By 2002 the number of motorcycles had increased by 734, which represents a 5% change. See Appendix I for a comparison of growth rates for motorcycles and automobiles in San Francisco.

The proportional shares, and hence demands for motorcycle parking, may be expected to be greater in neighborhoods where congestion may be acute. For example, and according to DMV, the City’s areas reflecting the bulk of motorcycle registrants are in zip codes: 94109, 94110, 94114, 94117, and, 94122 (See Appendix II).

<sup>7</sup> San Francisco Traffic Code section 27

<sup>8</sup> National Motorcycle Council, National Association of State Motorcycle Safety Administrators, and the U.S. Department of Transportation, National Highway Traffic Safety Administration

<sup>9</sup> American Motorcycle Association, interview August 1, 2002

### *Other jurisdictions*

According to the various transportation associations<sup>10</sup>, few authorities base decisions on motorcycle parking on data that has been specifically collected on motorcycle movements. The most frequent reasons for providing parking are either opportunistic - where other works are planned – or in response to user demand.

Of all the municipalities surveyed, none had a process by which to track and count motorcycles within their jurisdiction. Summary of the survey is below. A more detailed description can be found in Appendix V.

JURISDICTION	Has procedure to identify number of motorcycles
Boston	NO
Chicago	NO
Chula Vista, Ca	NO
Corona, CA	NO
Dixon, CA	NO
Fresno, CA	NO
Gardena, CA	NO
Glendora, CA	NO
Los Angeles	NO
Madera, CA	NO
Montclair, CA	YES (off-street/parking lots)
Mountain View, CA	NO
Oakland, CA	NO
Philadelphia, PA	NO
San Diego, CA	NO
San Jose, CA	NO
Riverside, CA	NO
San Luis Obispo, CA	NO
Santa Maria, CA	NO
Seattle, WA	NO
Temecula, CA	NO
Truckee, CA	NO

<sup>10</sup> American Motorcycle Association and the Institute of Transportation Engineers.

## CONCLUSION

Our research shows that the number of motorcycles is increasing faster than that of automobiles in the City. We also found that the Supervisorial Districts 2, 5, and 7 have the greatest number of motorcycle registrants in the City. However, according to DPT, the majority of motorcycle parking spaces (metered and unmetered) is in Districts 3 and 6.

In San Francisco, we cannot draw any conclusions about the distribution of motorcycle slots since we have no precise data reflecting definitive need and availability of these special spaces. Moreover, we discovered that other jurisdictions do not have procedures and policies for determining on-street motorcycle parking spaces. Instead, they allocate on an as needed or requested basis as in San Francisco.

### *Recommendations*

- The Board may want to have DPT contract a field study of current number of motorcycles within the City by district and develop a working ratio of supply and demand for motorcycle parking spaces.
- Find ways to assist DPT in making the parking space petition process more accessible to residents and business owners. DPT is considering posting these requirements on the website and creating a brochure that would be available in the City's public offices. Board support would be constructive in informing the public and perhaps alleviating constituent apprehension in the matter.

## APPENDIX I

### San Francisco Vehicle Registrations-1999 to 2002

	July 1999	January 2002	July 2002	Change 1999-2002	Change 1999-2002/percent
<b>Automobiles</b>	357,233	378,406	366,881	9,648	3%
<b>Motorcycles</b>	15,453	16,597	16,187	734	5%
<b>Totals</b>	372,686	395,003	383,068	10,382	3%

(Source: California Department of Motor Vehicles and San Francisco Department of Parking and Traffic)



## APPENDIX II

**MOTORCYCLES  
SAN FRANCISCO ZIP  
CODES**

Source: California Department of Motor Vehicles, January 2 and July 2, 2002

Zip Codes	January 2002	July 2002	Registration Change	Per cent Change
94101	1	1	0	0%
94102	468	430	-38	-8%
94103	574	594	20	3%
94104	38	43	5	13%
94105	89	90	1	1%
94106	0	0	0	0%
94107	738	739	1	0%
94108	210	191	-19	-9%
94109	1265	1211	-54	-4%
94110	1880	1827	-53	-3%
94111	71	69	-2	-3%
94112	837	834	-3	0%
94114	1230	1226	-4	0%
94115	785	763	-22	-3%
94116	658	655	-3	0%
94117	1499	1386	-113	-8%
94118	798	800	2	0%
94119	24	21	-3	-13%
94120	1	2	1	100%
94121	761	723	-38	-5%
94122	1018	1019	1	0%
94123	683	659	-24	-4%
94124	310	295	-15	-5%
94125	6	7	1	17%
94126	6	7	1	17%
94127	380	390	10	3%
94128	24	26	2	8%
94129	97	92	-5	-5%
94130	69	66	-3	-4%
94131	745	759	14	2%
94132	241	222	-19	-8%
94133	582	552	-30	-5%
94134	347	329	-18	-5%
94135	0	0	0	0%

94136	0	0	0	0%
94137	3	1	-2	-67%
94138	0	0	0	0%
94139	0	0	0	0%
94140	11	10	-1	-9%
94141	23	28	5	22%
94142	28	23	-5	-18%
94143	0	1	1	0%
94144	0	0	0	0%

### Motorcycles

Zip Codes	January 2002	July 2002	Registration Change	Per cent Change
94145	0	0	0	0%
94146	19	20	1	5%
94147	21	19	-2	-10%
94150	0	0	0	0%
94151	0	0	0	0%
94152	0	0	0	0%
94153	0	0	0	0%
94154	0	0	0	0%
94155	0	0	0	0%
94156	0	0	0	0%
94157	0	0	0	0%
94159	17	15	-2	-12%
94160	0	1	1	0%
94161	0	0	0	0%
94162	0	0	0	0%
94163	0	0	0	0%
94164	15	14	-1	-7%
94165	0	0	0	0%
94166	0	0	0	0%
94167	0	0	0	0%
94168	0	0	0	0%
94169	0	0	0	0%
94170	1	0	-1	-100%
94171	0	0	0	0%
94172	0	0	0	0%
94175	0	0	0	0%
94177	0	1	1	0%
94188	24	26	2	8%
<b>Total</b>	<b>16597</b>	<b>16187</b>	<b>-410</b>	<b>-2%</b>

### APPENDIX III

#### San Francisco Motorcycle Registration

##### By District

July 1, 2002

(Source: California Department of Motor Vehicles and San Francisco Department of Elections)

DISTRICT	Motorcycles	Percent of City total*
1	1450	9%
2	2437	15%
3	926	6%
4	1069	7%
5	2311	14%
6	1422	9%
7	2358	15%
8	1798	11%
9	762	5%
10	1103	7%
11	323	2%
	15959	

\*(actual total number noted by DMV was 16,187)

**\*\*Important to note that the data is approximate  
since many of the zip codes overlapped the district  
boundaries**

## APPENDIX IV

**San Francisco Designated Motorcycle Parking-2002**

Source: San Francisco Department of Parking and Traffic, July 2001 and updated July 2002

DISTRICT	Metered Spaces	Unmetered Spaces
1	10	15
2	39	19
3	397	37
5	48	30
6	731	187
7	0	48
8	55	46
9	37	3
Total	1311	385

## **APPENDIX V**

### **BOSTON, MA**

According to the Boston Transportation Commissioner's Office, there is no process for designating motorcycle-parking spaces. The Commissioner stated that they "have been grappling with developing strategies for regulating motor cycles," but have yet to make any determinations. They believed that due to Boston's harsh winter conditions, motorcycling is probably not as popular compared to cities with warmer climates, and therefore, not a pressing issue.

### **CHICAGO, IL**

According to the Mayor's Office and Planning Department, this motorcycle parking space matter is "an upcoming issue, and (they) plan to explore it."

### **CHULA VISTA, CA**

According to the City's Principal Planner, the City of Chula Vista currently does not have any program to identify the needs of the motorcycle community. They are however in the process of gathering information for a comprehensive update of their General Plan and are considering a process to track the number of motorcycles within the jurisdiction.

### **CORONA, CA**

The City Manager's stated that this is not an issue and that they do not "have designated spaces for motorcycles."

### **DIXON, CA**

The City's Senior Planner informed us that the City of Dixon currently has no process to determine the number of motorcycle and has no specific motorcycle parking standards. They are considered a vehicle within the standard parking stall. However, they have recently used motorcycle parking as an in lieu stall count for off street parking requirements while approving a multi-family complex.

### **FRESNO, CA**

The City of Fresno Transportation Manager informed us that they do not currently have a standard for providing special parking for motorcycles or "accounting for them." The manager felt that they do not have a significant number of motorcycles in town, and thus, have no specific requests from any group to provide special motorcycle parking.

### **GARDENA, CA**

According to the City Administrator, their traffic and parking code require calculating parking for churches and their ancillary uses, such as parish/social hall, classrooms, and offices. However, there is no designated process for motorcycle parking.

### **GLEN DORA, CA**

The Planning Department informs us that he City of Glendora does not have any special parking regulations or design standards for motorcycles or motorcycle parking.

## LOS ANGELES, CA

According to the Los Angeles Office of the City Administrative Officer, they do not count motorcycles as a separate category when undertaking any traffic or parking surveys.

## MADERA, CA

The City Planning Director informs us that the City has no special provisions in its Code pertaining to motorcycle parking. The City does allow compact parking spaces in large commercial lots, and motorcycles may occupy those, as well as any other designated parking space. Riders are considered to be "customers just like automobile drivers, and can occupy any space required to meet the City's on-site parking standards." The director indicated that the City has not experienced any problems or found the need to establish any special standards for motorcycles.

## MONTCLAIR, CA

According to the City Planner, the only element they have related to motorcycles are planning rules requiring motorcycle parking in parking lots of various capacities. There are no standards or need for on street parking of motorcycles. The lot ratios are as follows:

Total # of parking stalls	Required motorcycle parking
1-25	0
26-100	1 area (56 square feet)
Over 100	1 area for each additional 100 vehicle spaces or majority portion

For example, Target, Inc. recently completed construction of a new store in Montclair with 720+ parking spaces. They required them to do 392 square feet of motorcycle parking (or roughly the equivalent of just over two standard parking spaces).

## MOUNTAIN VIEW, CA

The City's Principal Planner stated that they do not have specific motorcycle parking requirements and therefore, no process for motorcycle parking.

However, they have commenced gathering background information to determine the need for change in automobile parking. This recent endeavor included field surveys of actual parking space use, information on vehicle sizes and turning radii (as well as data on number of vehicles of various sizes and types sold), and traffic volume data, and data from bicycle groups. They are also reviewing city policies and how they related to determinations of whether parking requirements should be "generous" or "tight" for community appearance, public convenience or other community objective reasons.

## OAKLAND, CA

According to the City's Parking Administration Office, they do not count motorcycles as a separate entity when reviewing traffic parking or traffic patterns.

## PHILADELPHIA, PA

According to the City's Mayor's Office of Strategic Planning they have no on street motorcycle parking policy. The City considers an automobile as far as parking meters, and other parking

regulations. Parking on sidewalks is dealt with on an ad hoc basis: if the abutting property owner shows no concerns and there is no undue disruption to pedestrian traffic, then motorcycle parking is condoned. Most motorcycle parking in center City is handled by off-street lots and garages, each of which has its own policies in that regard. According to the mayor's Office, the bottom line is that motorcycle parking has never been perceived as an acute issue, and thus it "hasn't garnered much attention."

In addition, according to the City's Department of Streets Traffic Engineering no statistics on motorcycle use or parking is collected.

### **SAN DIEGO, CA**

According to the San Diego City Manager's Office and Department of Traffic Engineering (DTE), they have no procedure for determining number of motorcycles in the city. DTE has jurisdiction over on-street parking, and is part of the Transportation Dept., reporting to the City Manager.

As to motorcycle spaces on-street, they are handled them on a "request basis, installing some spaces where requested, if there is space available."

The City has no written guidelines or policies on motorcycle parking. As indicated by DTE, they have the discretion to modify on-street parking, like adding motorcycle parking. The unwritten procedure followed is to "receive a request from someone who wants it (with reason why they see the need), property owner concurrence, available space (particularly if a remnant of less than one normal parking space is available, which would be ideal to use this remnant), then we install it."

In addition, and according to DTE it is purely reactive, that is, anyone can request a motorcycle parking space from DTE. The request is automatically approved if there is space.

### **SAN JOSE, CA**

The City's Planning Office informed us that "do not have data on motorcycles in the City and are not actively planning for this mode." The City Manager's Office did state that they do have off-street and private parking ratios for motorcycle spaces.

### **SEATTLE, WA**

According to the Senior Transportation Planner, Seattle Department of Transportation, the City of Seattle assigns on-street motorcycle parking similarly as they do other motorized vehicles. The City installs reserved motorcycle parking spaces where the abutting business caters to motorcycles and requests such parking. They also install parking in areas where they recognize a higher use of motorcycles exists (i.e., near universities).



## **RIVERSIDE, CA**

The City manager stated that the City of Riverside does not designate any particular parking stall for motorcycles. They are allowed to park in any stall that any other vehicle can park. Nor do they inventory the number of motorcycles within the City's jurisdiction.

## **SAN LUIS OBISPO, CA**

The City Planning Director informed us that the City of San Luis Obispo has approximately 70 motorcycle meters out of a total inventory of 1500 meters in the downtown area. The City has had meters "for 50 years so the process has evolved over the years." According to the director, they have "no absolute formula for this process." The director indicated that they rely on users to request more meters at particular locations based on occupancy (75% or more) of existing or total lack of meters on a particular block. The configuration of off-site parking lots also dictates whether they would add spaces in odd size spaces or dead-end areas. Seasonal usage is also considered because "the spaces go empty in off-peak times." They also provide four motorcycle spaces adjacent to each of two parking garages because motorcycles are not allowed inside the garage. This is based on approximately 1 motorcycle space for each 100-car capacity in the garages.

## **SANTA MARIA, CA**

According to the City's Planning Division Director, the Parking Regulations for the City of Santa Maria "do not address motorcycle parking requirements." The City manager felt that "there are not a significant number of motorcycles within the City, so the lack of parking standards has not been a problem or an issue

## **TEMECULA, CA**

According to the mayor's Office, this is not an issue.

## **TRUCKEE, CA**

According to the Community Development Director, "motorcycles are not a viable form of year round transportation, so they don't allow any motorcycle spaces to count in the parking requirement."



OLA#: 009-02

## LEGISLATIVE ANALYST REPORT

DOCUMENTS DEPT

TO: Honorable Members of the Board of Supervisors  
FROM: Gabriel Cabrera, Legislative Analyst  
DATE: August 14, 2002  
SUBJECT: San Francisco's Flower Markets

AUG 19 2002

SAN FRANCISCO  
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### SUMMARY OF REQUESTED ACTION

Motion (introduced by Supervisor Sandoval) requesting the Office of the Legislative Analyst to review the history of flower markets in San Francisco, and estimate the total revenue they bring in and total revenue that is paid to the City.

### BACKGROUND

The City began issuing permits for flower-vending stands in 1904. Since then, the Department of Public Works (DPW) has issued permits on a case-by-case basis. Notably, in 1940, the Board of Supervisors passed an ordinance identifying the locations of the 12 flower-vending stands that were allowed to operate in the downtown area. Today, there are 18 locations citywide, as outlined in Section 155 of the City's Public Works Code. Attachment 1 to this report contains a list of these locations.

Permit fees for flower stands were last increased about 21 years ago in 1981. That year, quarterly permit fees increased from \$75 plus \$20 per employee to \$100 plus \$30 per employee. According to DPW's Bureau of Street Use & Mapping, the City collected approximately \$4,350 in permit fees from flower stands in FY 00-01. Moreover, Attachment 2 shows total revenues (Gross Receipts or Payroll) generated by flower stands over a three-year period from 1999 to 2001. According to the City's Treasurer & Tax Collector Office, all currently registered flower stands qualify for the City's Small Business Tax Exemption and do not pay City business taxes because their tax liabilities do not exceed \$2,500.<sup>1</sup> Thus, they do not generate tax revenues for the City.

### CURRENT LAW

Article 5 of the City's Public Works Code contains the rules and regulations governing street flower markets in San Francisco. According to this Article, only the Director of Public Works may issue permits for flower vending stands. As noted above, each permittee must pay \$100 per quarter plus \$30 per employee per quarter. The permittee must pay in advance and failure to do so may cause the Director of Public Works to revoke his/her permit. *In addition, any assignment or sale of a flower stand permit requires prior approval from the Board of Supervisors.* The exception to this rule occurs in the event of the permittee's death. In which case, the

<sup>1</sup> The last year that any flower stand generated tax revenues for the City was 1999. That year 2 stands paid City business taxes, according to the City's Treasurer & Tax Collector.

permit is assigned to a member of the deceased permittee's immediate family. Finally, any person, firm or corporation who violates any of the provisions of this Article is guilty of a misdemeanor.

### ISSUES ANALYSIS

- A. **Permit Fees** – According to the Bureau of Street Use & Mapping, permit fees for flower stands do not currently recover the cost of administering the permit program. As noted above, these fees were last amended 21 years ago, and have not kept up with inflation, according to the Bureau.
- B. **Delinquent Accounts** - Of the 18 permitted vendors, 5 owe the Bureau for delinquent permit fees. Attachment 3 to this report, provided by DPW, contains a comprehensive list of flower stands, last payment amounts, date paid up to, and whether or not the accounts are delinquent. The Bureau advised our office that some vendors have not paid permit fees for several years, and that it lacks the resources to collect outstanding balances.
- C. **Business Taxes** – The Treasurer & Tax Collector's Office advised us that 3 of the 18 permitted vendors have not registered to pay City business taxes. As such, it is not possible to determine whether these stands would be required to pay taxes. However, at a minimum, these stands are liable to the City for tax registration fees (\$25, \$150, \$250 or \$500 per year). In this case, the stands would most likely pay \$150 per year, according to the Treasurer & Tax Collector's Office.

### CONCLUSION

Our research shows that flower-vending stands have a long history in San Francisco. The number of stands has increased over time since 1904. The Director of Public Works has issued permits on a piecemeal basis, and added them to the City's Public Works Code accordingly. We discovered that flower stands paid \$4,350 in permit fees to the City in FY 00-01. This is about average, according to DPW. In addition, we found that all of the currently registered flower stands are exempt from City business taxes because their tax liabilities do not exceed \$2,500. Finally, we discovered that (1) permit fees do not recover DPW's costs of administering the permit program, (2) several flower vendors owe the Department for delinquent permit fees, and (3) some flower vendors have not registered to pay City business taxes. Based upon these findings, the Legislative Analyst offers the following recommendations for your consideration:

### RECOMMENDATIONS

1. Urge the Department of Public Works to increase permit fees for flower stands. At a minimum, the Department should recover its costs for administering the permit program.
2. Require DPW to forward delinquent accounts to the City's Bureau of Delinquent Revenue. In addition, the Board of Supervisors may consider charging interest on delinquent accounts.
3. Urge the City's Tax Collector to register all flower stands to pay City business taxes. The City should at least collect registration fees, if not taxes, from all stands.

## San Francisco Public Works Code

## ARTICLE 5 STREET FLOWER MARKETS

## SEC. 155. DESIGNATION OF LOCATIONS - PROVISIO.

**SEC. 155. DESIGNATION OF LOCATIONS - PROVISIO.**

Sidewalk flower-vending stands shall be located within the following designated street flower market areas upon the sidewalks of the City and County of San Francisco at the curb or building line.

**The Grant Avenue Street Flower Market**

On the west sidewalk of Grant Avenue within 100 feet south of the southerly line of Geary Street.

On the east sidewalk of Grant Avenue within 100 feet south of the southerly line of Post Street.

**The Stockton Street Flower Market**

On the west sidewalk of Stockton Street within 100 feet south of the southerly line of Geary Street.

On the east sidewalk of Stockton Street within 100 feet south of the southerly line of Geary Street.

On the west sidewalk of Stockton Street within 100 feet north of the northerly line of Ellis Street.

On the east sidewalk of Stockton Street within 100 feet north of the northerly line of O'Farrell Street.

On the north sidewalk of Post Street within 50 feet west of 250 Post Street.

**The Powell Street Flower Market**

On the east sidewalk of Powell Street between 25 feet and 100 feet south of the southerly line of Geary Street.

On the west sidewalk of Powell Street within 100 feet north of the northerly line of Eddy Street.

**The Emporium Street Flower Market**

On the south sidewalk of Market Street facing the location of 835 Market Street.

**The Post Street Flower Market**

On the north side of Post Street, east of Powell Street within 200 feet east of the easterly property line of Powell Street.

**The Upper Market Street Flower Market**

On the north sidewalk of Sixteenth Street within 100 feet south of the southerly line of Market Street.

**The Market Street Flower Market**

On the south sidewalk of Market Street facing the location of 101 Market Street.

On the south sidewalk of Market Street facing the location of 215 Market Street.

On the south sidewalk of Market Street within 100 feet of the west line of 5th Street.

On the east sidewalk of Montgomery Street, at Market Street, within 50 feet south of the north property line of Post Street.

**The Columbus Avenue and Powell Street Flower Market**

On the northwestern end of Marini Park on Columbus Avenue and Powell Street.

**The Harvey Milk Plaza Flower Market**

On the west sidewalk of Castro Street north of the main entrance to the Harvey Milk Plaza Muni Metro Station. (Amended by Ord. 17-82, App. 1/15/82; Ord. 356-85, App. 7/12/85; Ord. 433-86, App. 11/7/86; Ord. 492-88, App. 11/8/88; Ord.

124-98, App. 4/2/98)

# Gross Receipts or Payroll Generated by San Francisco Flower Stands

Flower Stand	1999		2000*		2001			
	Gross Receipts		Gross Receipts		Payroll			
1	\$	100,221	\$	107,051	\$	6,349	\$	33,334
2		106,489		110,208		2,800		33,333
3		45,775		48,613		4,800		n/a
4		64,094		60,225		0		67
5		79,532		83,162		19,760		33,333
6		28,596		95,325		4,550		33,333
7		33,563		Inactive		Inactive		Inactive
8		n/a		n/a		n/a		67
9		n/a		n/a		n/a		n/a
10		Inactive		Inactive		Inactive		Inactive

\*The Gross Receipts Tax was repealed in 2001 (retroactive to 2000). Thus, flower stands filed Gross Receipts or Payroll or both. Moreover, "inactive" means the flower stand closed, while "n/a" means not available as the stand did not file taxes.

# Permit Fees Collected on San Francisco Flower Stands

LOCATION	OWNER	LAST PAYMENT	PAID UP TO	DELINQUENT
West side of Grant Ave., South of Geary Blvd.	Michael Daigian	N/A	9/30/94	Yes
East side of Grant Ave., South of Post St.	Ronald Camozzi	\$ 520	3/31/03	No
West side of Stockton St., South of Geary Blvd.	Harvey Nalbandian	\$ 260	12/31/02	No
East side of Stockton St., South of Geary Blvd.	John Murdoch	\$ 640	12/31/02	No
West side of Stockton St., North of Ellis St.	Permit revoked May 1979			
East side of 100 Stockton St., North of O'Farrell St.	Patricia Lee	\$ 1,040	12/31/02	No
North side of 250 Post St.	Harold Hoogasian	\$ 520	12/31/00	Yes
East side of Powell St., South of Geary Blvd.	Stand removed April 1991			
West side of Powell St., North of Eddy St.	Albert Nalbandian	\$ 260	6/30/02	Yes
South side of Market St. West of 5th St.	Gil Herrera (Lurie Co) Sale pending B.O.S. approval/stand stored			
South side of Market St., West of Spear St.	Byron Yoanidis	\$ 400	12/31/02	No
South side of 835 Market St.	Harry Hoogasian	\$ 130	9/30/02	No
North side of Post St., East of Powell St.	Dayna Ramlan	\$ 1,690	6/30/96	Yes
North side of 16th St., South of Market	Urbano & Juan Reynoso	\$ 520	2/7/02	Yes
South of 215 Market St.	Raphtael Kilowski	N/A	9/30/94	Yes
South side of Columbus, East of Powell	Stand removed July 1991			
Harvey Milk Plaza @ MUNI Castro Station (added by Ord. #433-86)	Location never established			
Market @ Montgomery & Post Sts (added by Ord #124-98)	Galina Pulvers	\$ 800	3/4/04	No

Highlight denotes flower stand is no longer in operation.



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## LEGISLATIVE ANALYST REPORT

TO: The Honorable Members of the Board of Supervisors  
FROM: Adam Van de Water, Legislative Analyst  
DATE: August 20, 2002

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DOCUMENTS DEPT.

ISSUE: Women's Professional Sports Franchises (File No. 020365)

AUG 21 2002

### SUMMARY OF REQUEST

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President Ammiano, through the Board, asked the Office of the Legislative Analyst to research the steps required for the City and County of San Francisco to attract a professional women's sports franchise, including required financial backing and sporting venues and capacity. The report should document, to the extent possible, bids offered in other jurisdictions to obtain teams, ticket sales in other local sporting venues, such as Candlestick Park to be used for soccer and the status of plans to develop a basketball arena and new football stadium in San Francisco.

### EXECUTIVE SUMMARY

There are currently three women's professional sports leagues in existence: the Women's National Basketball Association (WNBA), the Women's United Soccer Association (WUSA), and the Women's American Football League (WAFL)<sup>1</sup>. Appendix 1 details information on the three national leagues, their teams, venues, capacities, costs of construction, and single ticket prices.

San Francisco currently has four stadia capable of hosting a major league sporting event: 3Com Park at Candlestick Point, Pacific Bell Park, the Cow Palace and Kezar Stadium. Appendix 2 describes their opening dates, costs of construction, seating capacities, and primary tenants. San Francisco has a newly formed women's professional football team (the San Francisco Tsunami), currently has the capacity to attract a WUSA women's soccer team, and would need to negotiate with the WNBA and build a stadium in order to attract a professional women's basketball team.

After exploring the history of new stadia construction in San Francisco and the preliminary conditions necessary to attract a WNBA or WUSA franchise to San Francisco, the Office of the Legislative Analyst finds that the WUSA is the most attractive women's professional sports team should the Board wish to pursue a new team in San Francisco. Preliminary conversations suggest that the San Jose CyberRays could be lured to play in Kezar Stadium if the City:

<sup>1</sup> This does not include semi-professional teams or tournament sports such as the Women's Tennis Association or the Ladies Professional Golf Association that do not have franchise teams.

- 1) submitted a joint proposal with the WUSA to the Kezar Stadium Advisory Committee and Recreation and Parks Commission with specific dates, costs, and transportation plans for the use of the stadium over the ten or eleven home-game season, and
- 2) demonstrated support for the WUSA and was willing to negotiate with CyberRays management to host the team.

### **CONSTRUCTING NEW SPORTS STADIA: A BRIEF OVERVIEW**

Simply put, most publicly funded sports stadia do not generate new revenues to the City. In fact, in the words of the Federal Reserve Bank of Kansas City, “studies overwhelmingly find that the [job creation and tax revenue] benefits are much smaller than the outlay of public funds.” The value of building a new sports stadium, therefore, depends upon its ability to meet latent demand for meeting space (additional concerts, conventions or sporting events not otherwise able to reserve space in San Francisco) and the immeasurable degree to which it generates short-term construction work, national television and advertising exposure, and/or regional civic pride.

Roger Knoll and Andrew Zimbalist, co-authors of Sports, Jobs, and Taxes, state flatly, “few fields of empirical economic research offer virtual unanimity of findings. Yet, independent work on the economic impact of stadiums and arenas has uniformly found that there is no statistically significant positive correlation between sports facility construction and economic development.” According to the literature, most of the additional revenues resulting from the construction of new stadia represent shifts in discretionary spending within the region away from other leisure activities and toward the new stadium. In addition, because 65 percent of team revenues go to players under union contracts who often do not live locally, much of this spending shift is transferred out of the region.

According to the June 14, 2002 San Francisco Business Times, between 1987 and 1999, 55 sports complexes were built at a cost of \$8.7 billion. Taxpayers covered 57 percent of those costs, in some cases – such as the reconstruction of the Oakland Coliseum and the Oakland Arena – paying the entire cost of the new stadium. On average, a new basketball or hockey arena costs approximately \$200 million (with the public’s share averaging approximately \$100 million), while a new baseball or football stadium costs approximately \$300 million (with the public’s share averaging approximately \$200 million). See Appendix 3 for a listing of the total cost and public share of recent national and California major league stadium financings.

### **PLANS TO BUILD A NEW STADIUM IN SF**

Mayor Brown proposed to build two professional sports stadia over the past six years, neither of which ever reached the construction phase. The first, a \$100 million bond issuance authority to build the NFL 49ers’ a new \$450 million stadium at Candlestick Point alongside a new \$200 million 1.7 million square foot retail shopping center, was narrowly approved by the voters as Proposition D in June 1997. However, in a memo to the Finance Committee in early 1997 (File 60-97-3), the Budget Analyst estimated that the net result of increasing sales taxes, gross receipts, and other tax revenues while decreasing park revenues and increasing debt service would have resulted in an annual General Fund reduction to the City of \$4,648,912. These

escalating costs, together with instability within the 49ers ownership, prevented the City from ever exercising this specific authority and the bond was never issued.<sup>2</sup>

Currently, the City and the 49ers are seeking new naming rights for the stadium at Candlestick Point as the agreement with 3Com Corporation expired in January 2002. According to Jaci Fong at the Department of Recreation and Parks, how long the 49ers will continue to play in the existing stadium is an open question. Given planning and construction time, Ms. Fong estimates that it would be at least five to six years before a replacement stadium could become operational.

The second stadium proposition came in 1994 and again in 2000 when the Mayor's Office explored building a 20,000-seat stadium above the Transbay Bus Terminal. The large-scale development project incorporated the existing transit hub as well as retail and office space, convention facilities and a possible future home of a NBA and/or NHL team. According to Maria Ayerdi in the Mayor's Office of Economic Development, it was never determined how long it would take or how much it would cost to build this arena. Rather, given the inadequate structure at the Terminal to support the stadium and the need to build over the streets and acquire new property, the project was abandoned as prohibitively expensive. Building an arena could potentially work, Ms. Ayerdi advises, near the terminus of I-280 between 6<sup>th</sup> and 7<sup>th</sup> Avenues and Townsend and the Channel, with parking above the Caltrain tracks at 4<sup>th</sup> and King. However, this is not currently an active project of the Mayor's office.

Port Director Douglas Wong believes that the only thing currently preventing a developer from privately financing and constructing a 20,000-seat stadium near Pacific Bell Park is a demonstrated commitment of support from the Board of Supervisors. If the Board passed a motion urging the Port to explore the possibility of privately financing and building a new stadium, he believes a developer would respond with a 100 percent privately financed proposal that involves no public commitment of funds. Mr. Wong believes that significant demand exists to fully recover this private expenditure of funds from sources such as Bill Graham Presents concert promoters, the University of San Francisco basketball team, and other agents that have approached the Port looking for space to hold their conventions.

### ATTRACTING A TEAM TO SF

#### **WAFL Football**

San Francisco already has a women's professional football team in the San Francisco Tsunamis. The Tsunamis began their inaugural season last fall in Kezar Stadium in front of an average crowd of up to 400-600 spectators<sup>3</sup>. According to General Manager Tynya Beverly, efforts to increase visibility of the new league have been slow and team representatives have met with the city to discuss promotional opportunities as well as possible changes to its contract with the Recreation and Parks Department (DRP) which operates Kezar Stadium.

<sup>2</sup> The authority while never exercised was tied closely to the specific conditions of the proposed deal as the authorizing text of Proposition D stated that "the City shall not issue the bonds until [eleven specific] conditions have been negotiated and concluded with the Mayor's Office."

<sup>3</sup> The Department of Recreation and Parks and the Tsunami management disagree on average attendance figures.  
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## WNBA Basketball

Attracting a WNBA team to San Francisco faces two significant, if not outright prohibitive, hurdles. First, San Francisco would have to negotiate to host the first WNBA team outside of a NBA city in the league's history. As most WNBA expansions are negotiated with the support of NBA team executives<sup>4</sup> and San Francisco does not currently have a NBA team<sup>5</sup>, it is unlikely that San Francisco could successfully bid to host an expansion team. The owners of the NBA Golden State Warriors in Oakland have expressed a desire to host a new WNBA team as early as 2004. According to Chief Operating Officer of the WNBA Paula Hansen, NBA team owners get first rights to operating agreements in new markets and would therefore have first priority should the Bay Area be considered for an expansion team.

Secondly, and perhaps equally prohibitive, San Francisco would need to construct a new 10,000 – 20,000-seat stadium to host a team<sup>6</sup>, the current average total cost of which is approximately \$200 million (see Appendix 3). Even if, as Port Director Wong asserts, private financing currently exists to construct a new stadium without public money (see above), the City of San Francisco is still likely to be liable for non-construction costs (such as police services and transportation management) and could not benefit from a new team's presence until at least 2008 when the stadium could first be completed. Also, the fact that two recent efforts to build new stadia in San Francisco have failed to reach the construction phase despite public support suggests that other obstacles may exist other than the availability of public vs. private funds.

As a result, barring a future and expensive move of the Golden State Warriors to San Francisco after 2009 or the collapse of any arrangements between the WNBA and the Warriors coupled with the construction of a new \$200 million stadium, San Francisco is unlikely to gain a women's professional basketball team anytime in the near future.

## WUSA Soccer

Of the existing eight WUSA teams, only two are from the West Coast: the San Diego Spirit and the San Jose CyberRays. According to Charles Parker, WUSA Chief Financial Officer, the Atlanta-based WUSA is currently looking to expand its West Coast league and would be interested in establishing an expansion team out West. As the WUSA is a single entity corporation, attracting a new team would require the formation of a private investor group willing to invest in the league and purchase the rights to an operating agreement for the team. The WUSA Board of Governors approves this several million-dollar commitment which is pooled and shared equally among teams on the basis of the team's ticket sales, sponsorships, and television rights. The team could play at an existing city-owned stadium – most promisingly

<sup>4</sup> The bid to attract a WNBA team to San Antonio for the 2003 season, for example, included among others the support of San Antonio Spurs Chairman Peter Holt and Spurs Executive Vice President Russ Bookbinder.

<sup>5</sup> While the Golden State Warriors played in the Cow Palace in San Francisco during the 1960s and could potentially be lured back to play in San Francisco in the future, the Warriors are currently under contract with the Oakland Alameda County Coliseum Authority to play in the Oakland Coliseum through 2027. The team could break that contract in 2009 if it agreed to pay 100 percent of the cost of the remaining debt service within 30 days of the contract's termination.

<sup>6</sup> WNBA attendance has averaged just over 9,000 fans per game and typically use the lower tier of NBA stadia for their games. The WNBA requires its owners to curtain off upper tier seats and sell all lower tier seats (lower tiers of current stadia hold approximately 8,500 to 13,000 seats) before they can sell tickets in the upper tier.



Kezar Stadium, which, according to Parks and Recreation, has available dates and appropriate seating capacity<sup>7</sup>.

However, San Jose CyberRays General Manager Marlene Bjornsrud believes with 99 percent certainty that the Board of Governors would not approve another team in the Bay Area within such a short radius of San Jose, especially this early in the league's development. Instead, should San Francisco be interested, Ms. Bjornsrud indicated that the CyberRays would consider moving from their current home at San Jose State's Spartan Stadium to a venue in San Francisco if certain essential conditions could be met. These conditions include:

- (1) seating capacity for 7,000 fans,
- (2) provision of adequate and accessible parking,
- (3) field lights for night play,
- (4) assurance that the stadium is "television ready" (with camera platforms, truck access, etc.),
- (5) availability of ten to eleven weekend home games between mid-April and mid- to late-August, and
- (6) demonstrated political support from City officials. (See Appendix 4 for a complete list of minimum stadium standards.)

The San Francisco stadium that most closely meets these criteria is Kezar Stadium in the southeast corner of Golden Gate Park<sup>8</sup>. Kezar has a capacity of 10,000 in 18 rows of bleacher seating on the north and south sides, has field lights for night play, has hosted televised high school events, and has booking availability during the WUSA season mid-April to mid-August. According to Stadium Manager Jim Jackson, this could cause conflicts with high school track tournaments during the WUSA's opening weeks in late April. However, the remainder of the WUSA season falls outside of high peak permitted times, which occur during the school year.

The primary hurdle to luring the CyberRays to San Francisco is parking. In order to win approval from the Kezar Stadium Advisory Committee<sup>9</sup> and the Recreation and Park Commission, team or city officials would have to demonstrate a strong Transportation Management Plan that could handle the expected 7,000 to 9,000 fans for each of the team's ten or eleven home games. A recent proposal to host a professional soccer game at Kezar was denied due primarily, according to Ms. Huntington, to lack of an effective transportation management plan<sup>10</sup>.

<sup>7</sup> According to CyberRays General Manager Marlene Bjornsrud, the best suited WUSA venues range in capacity from 7,000 to 15,000 seats. The CyberRays evaluated 3Com Park as a potential site in 2001 and determined that it was far too big for the average attendance of approximately 8,500 fans. Similarly, in the words of Ms. Bjornsrud, with a capacity of 30,578 Spartan Stadium "costs a lot of money just to open."

<sup>8</sup> Candlestick Park was deemed too large and too expensive by the WUSA when they initially explored venues in 2000/2001 and the newly renovated Cox Stadium at San Francisco State University has a capacity of only 5,000.

<sup>9</sup> According to the Interim Kezar Stadium Operation and Permit Policy Section 18, "the General Manager will appoint a Kezar Stadium Advisory Committee to be composed of up to eleven members. This committee will consist of neighbors and residents of the Kezar and Haight area, representatives of the San Francisco Unified School District, inner Sunset community groups, private schools, San Francisco Recreation and Park Department, soccer organizations, and other user groups."

<sup>10</sup> Event organizers intended to hire several buses and shuttle fans in from Chrissy Field during rush hour on a weekday.



Per Section 12 of the Kezar Operation and Permit Policy, this plan (1) “must coincide with the times when available parking is at a maximum” (shown in the table below as weekday nights), (2) “must be coordinated with other facilities in the area so that adverse impact from concurrent use will be avoided”, (3) must “direct stadium patrons to available off-site parking lots in the area” including posting maps and informational flyers, (4) must have “police regulation for vehicles exiting from the stadium lot...and pedestrians crossing Stryan and Frederick Streets”, (5) and must provide “evidence of coordination with Muni Transit and consideration for use of chartered buses with either Muni or private companies.”

The Transportation Management Plan could include the use of the estimated 904 weekend and 2,375 weekday parking spaces within a 15 minute walk<sup>11</sup>, MUNI’s N Judah light rail line, bus lines 7 and 71, and possibly a shuttle service from a satellite parking location elsewhere in the city. According to President Dorrie Huntington, the Kezar Advisory Committee plans to begin work on elements of what constitutes a successful transportation plan at one of their upcoming quarterly meetings.

Other considerations contained in the Stadium Operation and Permit Policy include:

- Scheduling preference is given to youth athletics during weekdays and evenings. Sporting events will have priority if scheduled at least 30 days prior to the event;
- Only three events may be scheduled per week. Of these three events, only one event will be allowed at night and may use the field lights;
- Lighting levels are set for “amateur play”;
- Sound levels may not exceed a level that has been set through a sound governor controlled by department staff
- Current contracts apply to all food concessions for events over 5,000; and
- Consumption or possession of alcohol is not permitted at any time nor are beverages in glass containers or cans.

Any associated cleanup, maintenance, police services, or transportation costs incurred by the City could be at least partially recovered by stadium rental rates, currently set at the greater of a low set fee or 25 percent of gross ticket and concession receipts plus 20 percent of gross merchandise receipts. Depending on ticket prices and total attendance, the amount generated for the City would likely range between \$12,000 and upwards of \$55,000 per game<sup>12</sup>. The Director of the Parks and Recreation Department has the authority to adjust or waive rental rates charged for the rental of Kezar Stadium.

According to Ms. Bjornsrud, the CyberRays’ agreement with Spartan stadium ends at the conclusion of the 2002 season and the team will begin to negotiate their field contract for the 2003 season in mid-September. Under the existing contract with Spartan stadium, the

<sup>11</sup> Interim Kezar Stadium Operation and Permit Policy Table A-1.

<sup>12</sup> Rental rates at Kezar are determined by the higher of either a low base rate (currently between \$400 and \$2000) or 25 percent of gross ticket and concession receipts. As the WUSA would almost certainly attract over 8,000 fans to its games, the City would generate a minimum of \$12,000 per game for 8,000 tickets sold at the minimum price of \$6 per ticket and a maximum of \$55,000 for 10,000 tickets sold at the maximum price of \$22 per ticket plus 25 percent of all concession and 20 percent of all merchandise sales.

CyberRays pay the greatest of \$10,000 per game or eight percent of gross receipts (capped at \$25,000) plus field operations costs for groundskeeping, custodial work, and concessions. According to Ms. Bjornsrud, depending on attendance and the time and length of the game, the sum of these costs can total up to \$50,000 per game.

### CONCLUSION

The most promising opportunity to bring women's professional sports to San Francisco is to lure the WUSA San Jose CyberRays to play at Kezar Stadium in Golden Gate Park. To do so, the Board of Supervisors would need to:

- 1) Submit a plan to the community-based Kezar Advisory Board and Recreation and Park Commission detailing requested dates, anticipated attendance, television rights and other details as well as provide an acceptable Transportation Management Plan to handle the expected 8,000 – 10,000 fans, and
- 2) Negotiate with CyberRays management and demonstrate political support for the team and its relocation to San Francisco.

The earliest that San Francisco could host the CyberRays in Kezar would be the 2003 season beginning in mid-April. Getting the CyberRays to San Francisco in such a short period of time would require negotiations to begin by early September of this year.

# Appendix 1: The Three Women's Professional Sports Leagues and Their Venues

## WNBA (formed 1996)

The 29 member teams of the National Basketball Association own the WNBA and provide the venue space for the sixteen WNBA teams. The closest team – the Sacramento Monarchs – is approximately 90 miles away. WNBA regular season attendance in 2001 averaged 8,454, or approximately 43% of the average 19,707 available seats, with adult single ticket prices ranging from \$5 up to \$225 for a luxury suite. Each team plays 32 total games, 16 of which are played in their home stadium.

<i>WNBA Team</i>	<i>Venue</i>	<i>Basketball Capacity</i>	<i>Total Cost (Year Opened)</i>	<i>Public Share<sup>13</sup></i>	<i>Other Major League Tenants</i>
1. Sacramento Monarchs	ARCO Arena	17,317	\$40m (1988)	-- (0%)	NBA Kings
2. Los Angeles Sparks	Staples Center	20,000	\$375m (1999)	\$274m (73%)	NBA Lakers, NHL Kings, NBA Clippers
3. Phoenix Mercury	America West Arena	19,023	\$90m (1992)	\$35m (39%)	NBA Suns, NHL Coyotes
4. Utah Starzz	Delta Center	19,911	\$90m (1991)	\$19m (21%)	NBA Jazz
5. Detroit Shock	The Palace at Auburn Hills	21,454	\$70m (1988)	-- (0%)	NBA Pistons
6. Washington Mystics	MCI Center	20,674	\$260m (1997)	-- (0%)	NBA Wizards, NHL Capitals
7. Minnesota Lynx	Target Center	19,006	\$117m (1990)	\$117m (100%)	NBA Timberwolves
8. Charlotte Sting	Charlotte Coliseum	24,042	\$52m (1988)	\$52m (100%)	formerly NBA Hornets
9. Cleveland Rockers	Gund Arena	20,562	\$152m (1994)	\$73m (48%)	NBA Cavaliers
10. Houston Comets	Houston Arena (opens 9/03, \$175m)	18,500	<i>projected</i> \$202m (2003)	TBA	NBA Rockets
11. New York Liberty	Madison Square Garden	19,763	\$43m (1968) <i>renovation</i> \$200m (1991)	100% in 1968, unknown in 1991	NBA Knicks, NHL Rangers
12. Orlando Miracle	TD Waterhouse Centre	17,248	\$102m (1989)	\$102m (100%)	NBA Magic

<sup>13</sup> The Total Cost and Public Share estimates by NSLI include all known costs of construction and all public costs directly attributable to the construction.

13. Indiana Fever	Conseco Fieldhouse	19,200	\$175m (1999)	\$72m (41%)	NBA Pacers
14. Miami Sol	American Airlines Arena	20,000	\$241m (1999)	\$142m (59%)	NBA Heat
15. Portland Fire	Rose Garden	21,538	\$262m (1995)	\$34m (13%)	NBA Trailblazers
16. Seattle Storm	Key Arena	17,072	\$110m (1995)	\$110m (1995)	NBA Supersonics

*Sources: WNBA, Munsey and Suppes, National Sports Law Institute, 2002*

### **WUSA (formed 2001)**

The WUSA is a single limited liability company owned by six cable television investors: AOL/Time Warner, Cox Communications, Cox Enterprises, Comcast Corporation, John Hendricks (Discovery Communications), and Amos Hostetter (founder of Continental Cablevision). The eight WUSA teams play predominantly in college stadia and, in its 2001 inaugural season, averaged 8,295 attendees per regular season game. The 21-game regular season runs for four months from mid-April through mid-August and teams play ten to eleven home games on Saturdays, Sundays and occasional weekdays. Single ticket prices range from \$6 up to \$30.

<i>WUSA Team</i>	<i>Venue</i>	<i>Soccer Capacity</i>	<i>Year Opened</i>	<i>Single Ticket Price</i>
1. Atlanta Beat	Herndon Stadium @ Morris Brown College	15,000	\$21m renovation <1996 Olympics (1948)	\$8-\$20
2. Boston Breakers	Nickerson Field @ Boston Univ.	10,412	(1953)	\$11-\$25
3. Carolina Courage	SAS Soccer Park	7,000	\$14.5m <sup>14</sup> (2002)	\$10-\$24
4. New York Power	Mitchel Athletic Complex @ Nassau Community College	10,102	--	\$12-\$25
5. Philadelphia Charge	Goodreau Field @ Villanova University	12,500	(1927)	\$10-\$20
6. San Diego Spirit	Torero Stadium @ the Univ. of San Diego	7,035	(1961)	\$12-\$30
7. San Jose CyberRays	Spartan Stadium @ San Jose State University	30,456	(1933)	\$6-\$22
8. Washington Freedom	RFK Stadium	56,454 <sup>15</sup>	(1961)	\$12-\$23

*Source: WUSA.com, 2002*

<sup>14</sup> Phase I of a seven-field complex financed by local tax revenues.

<sup>15</sup> Former home of NFL Redskins and MLB Senators.

### **The WAFL (formed 2001)**

The inaugural 2001-2002 WAFL season consisted of fourteen teams. Five additional expansion teams are planned for the upcoming 2002-2003 season. San Francisco's home team, the SF Tsunamis, played ten games last fall/winter including four on their home field in Kezar Stadium. Attendance averaged 400-600 per game with single adult ticket prices of \$15.

#### WAFL Pacific Conference

1. Arizona Caliente
2. LA Lasers
3. San Diego SunFire
4. East Bay Banshees
5. Hawaii Legends
6. Sacramento Gold Rush
7. San Francisco Tsunami
8. Pacific Blast\*
9. South Oregon Pumas
10. Rose City Wildcats
11. Seattle Warbirds
12. Vancouver Victory\*

#### WAFL Atlantic Conference

13. Alabama Slammers
14. Jacksonville Dixie Blues
15. New Orleans Voodoo Dolls
16. Birmingham Bandits\*
17. South Florida Sun Devils\*
18. Indianapolis Vipers
19. Virginia Destroyer\*

\* Expansion Teams 2002-2003.

## **Appendix 2: San Francisco's Major League Venues**

### **Pacific Bell Park – SF Giants**

Opened March 31, 2000 for \$306 million, Pacific Bell Park is the first ballpark built for Major League Baseball without general fund or special tax subsidization since Dodger Stadium opened in 1962. Pacific Bell Park can seat 41,059 and sold out a record 90 consecutive games through April of last year, although attendance has decreased somewhat since that time. According to the San Francisco Business Times, attendance at Pac Bell is on pace this year to top 3.3 million, enough to place the Giants in second or third place among Major League Baseball's 30 teams. The value of corporate sponsorships will top \$20 million for the third consecutive year (more than double the Giants' final season at Candlestick – due largely to increased signage space) and annual revenues are among the top five in the majors at \$160 million. Single ticket prices range from \$9 for standing room up to \$37 for Club level seats.

### **Park at Candlestick Point – SF 49ers**

Opened April 12, 1960 for \$24.6 million, the currently unnamed stadium at Candlestick Point was built entirely with public funds. The current home of the San Francisco 49ers, Candlestick Park can seat up to 70,000 and in 2001/2002, according to information provided by the Department of Recreation and Parks (DRP), the 49ers averaged 67,145 tickets per game and \$47.5 million in total revenue for the 10 game home season. Jaci Fong of the DRP Property Management Unit says that DRP “would love to have soccer” and could easily schedule the ten or eleven home games required to host a WUSA team in San Francisco.

### **The Cow Palace – No Major League Team**

The Cow Palace was publicly funded and built in 1941 as a post-Depression Works Progress Administration construction project to be used primarily for livestock shows. Since its completion it has been used for everything from rodeos to concerts, World War II troop deployment, and as a home for the NBA Golden State Warriors (1962-4, 1966-71) and National Hockey League San Jose Sharks (1991-1993). The Cow Palace has a seating capacity of 12,953.

### **Kezar Stadium – SF Tsunamis**

Opened in 1922 and then demolished and reconstructed in 1989 after the Loma Prieta earthquake, Kezar Stadium can hold a capacity crowd of approximately 10,000. Kezar is the current home of the Women's American Football League's San Francisco Tsunamis and the former home of the 49ers (1946-1970) and the Oakland Raiders (1970).



### Appendix 3: Recent Major League Stadium Financings

	Total Cost (\$mill)	Public share (\$mill)
<i>Average Cost of a New Stadium (# of Facilities)</i>		
1994-2000 new		
MLB/NFL (17)	\$286	\$188 (66%)
NBA/NHL (19)	\$185	\$84 (45%)
1994-2000 major renovations		
MLB/NFL (6)	\$110	\$88 (82%)
NBA/NHL (2)	\$114	\$98 (86%)
2001-2004 new		
MLB/NFL (15)	\$366	\$230 (63%)
NBA/NHL (3)	\$225	\$114 (51%)

			Type of public financing or tax	Year Opened
<i>California</i>				
Pacific Bell Park – San Francisco (MLB)	\$306	\$15 (5%)	City special financing district	2000
Network Associates Coliseum – Oakland (MLB, NFL)	\$200*	\$200* (100%)	County, city general fund	1966, * = renovation 1995/6
Oakland Arena (NBA)	\$121	\$121 (100%)	County, city general fund	1996
Staples Center – Los Angeles (NBA/NHL/WNBA/AFL)	\$321	\$71 (22%)	City	1998

Source: Federal Reserve Bank of Kansas City (data from 2001)

#### Appendix 4: WUSA Minimum Stadium Standards

Capacity	7000
Lights	Top quality for night play and for television standards
Playing Field	Natural grass; 106' x 68'; 10 yards between touchline/endline and stands/fence; barrier between stands and field/bench area
Enclosure	All enclosed by fence or wall; no entry
Team Locker Rooms	Two separate locker rooms 400 sq. ft. each equipped with two toilets, two sinks, four shower heads, twenty lockers, four electrical outlets, air conditioning and heat, doors with working locks; segregated space for 1-4 male coaches
Referee Locker Room	One room 100 sq. ft. equipped with two sinks, one individual shower, four lockers, and doors with working locks, air conditioning and heat
Press Box	Capacity of 20, four phone lines, four electrical outlets, two broadcast booths with broadcast lines, two television monitors, internal PA, one unisex toilet with sink
PA System	Quality sound system with ability to plays CDs
Scoreboard	Clock that can count up or down 0-45; home/visitors score
Luxury Suites	Space for tents for pre/post game hospitality
Camera Positions	Six positions: two at 18 yard each end, one midfield field level, one midfield high level, one handheld field level, one behind goal
Concession Stands	One line per 200 people
Public Restrooms	One woman's toilet per 100; two urinals per 125
Novelty Stands	Space for two temporary stands
Gates	One turnstile per 1000
Ticket Windows	One seller per 500 walk-up; 1 spectator will call
ADA Seating	2% distributed among all price levels

Parking	Space needs determined by ratio of 3.5 people per car
TV Truck	Parking and power near press box for semi, 1000 amps/200 volts
Interview Room	Tent located near field for post-game
First Aid Stations	Space for one 10 x 10 tent
Pre-game Fan Fest	5000 sq. ft. open space near stadium
Storage Room	200 sq. ft. on site
Flag Poles	Two of equal height
Sponsorships	No restrictions regarding on-site rights for sponsors; no facility sponsors at field level

*SOURCE: Marlene Bjornsrud, General Manager, San Jose CyberRays*



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LEGISLATIVE ANALYST REPORT

TO: The Honorable Board of Supervisors  
FROM: Carmen Chu, Clare Nolan, and Adam Van de Water, Office of the Legislative Analyst  
DATE: August 26, 2002  
RE: Condo Conversions: HOPE Initiative and Legislation (File # 020934, 020936)

SUMMARY AND SCOPE OF REQUEST

Supervisor McGoldrick through the Board of Supervisors submitted a request to the Office of the Legislative Analyst (OLA) to conduct research on several issues regarding the Home Ownership Program for Equity legislation (HOPE-L) currently pending in the Transportation and Commerce Committee and a very similar initiative entitled the Home Ownership Program for Everyone (HOPE-I) on the November 2002 ballot. The legislation and the initiative exhibit significant overlap and are generally referred to as HOPE in this document unless specifically stated otherwise below. Specifically, the Board asked the Legislative Analyst for 1) a comparison between HOPE and the current subdivision code, 2) a study of similar legislation enacted in Santa Monica called the Tenants Ownership Rights Charter Amendment (TORCA), and 3) an analysis of the impacts of HOPE on San Francisco's rental community and affordable housing stock. To address these questions, this report provides background information on condominium (condo) conversions in San Francisco; lays out the key differences between HOPE and the current subdivision code; analyzes the outcomes of TORCA in Santa Monica; and projects potential outcomes of the legislation and initiative in San Francisco.

EXECUTIVE SUMMARY

Under current City code, 2-6 unit residential rental properties can convert to condos through a process governed by the City's Subdivision Code and the State's Subdivision Map Act. Under the City's Subdivision Code, no existing residential property exceeding 6 units may convert to condominiums. The current subdivision code limits conversions to a pool of 200 units, and to a second pool of 200 units that may convert subject to re-sale price and other restrictions. An unlimited number of 2-unit buildings may convert subject to certain restrictions. In addition, non-purchasing tenants in the second pool and disabled and senior tenants in the first pool have the right to lifetime leases (also subject to certain restrictions) that provide all of the protections of the San Francisco Rent Ordinance.

HOPE would alter existing conversion policy by creating a new, separate process for the conversion of multi-unit rental properties to condos. The new process would open conversions to buildings of any size, including those with more than 6 units. If enacted, HOPE would increase the number of annual allowable conversions by setting the conversion at one percent of the housing stock in San Francisco for a period of 25 years (an annual

average of over 3,500 units). In order to apply for conversion under HOPE, signed intent to purchase forms would be required by 40% of tenants in 2-6 unit buildings; 33% of tenants in 7-12 unit buildings; and 25% of tenants in buildings with 13 or more units. Non-purchasing tenants would have the right to a lifetime lease that limits rent increases and limits the grounds for eviction.

This report uses 1) local housing data, 2) information regarding similar legislation enacted in Santa Monica, CA (e.g., TORCA), and 3) a review of documents pertinent to a similar condominium conversion policy in San Francisco from 1979-82 under earlier tenant protection laws to project potential outcomes of HOPE. Key findings from this analysis include:

- The maximum number of conversions that could occur under HOPE over the next 25 years is 88,649 units, assuming a continued net increase of 1,000 housing units per year. The Office of the Legislative Analyst finds that the number of conversions in San Francisco will likely be lower – an estimated 53,189 units. Based on these projections, the HOPE legislation could result in the loss of between 25-42% of the City's rent-controlled units over a period of many decades.
- In estimating the purchase price of condos converted under HOPE, it is likely the median sale price will fall somewhere between that of condos sold during the past year in San Francisco (a "ceiling" price of \$500,000) and that of the per unit price of units in multi-unit buildings (a "floor" price of \$285,000).
- When considering mortgage payments alone, a household would have to earn over \$125,000 to afford the "ceiling" price (\$500,000). Similarly a household would have to earn over \$75,000 to afford the "floor" price (\$285,000). According to Census 2000 data, approximately 37% of San Francisco households had an income of \$75,000 or more in 1999 and 25% had a household income of \$100,000 or more. In addition, potential owners would have to be able to afford the average down payment (typically 20% in San Francisco), other up-front costs associated with purchasing a home, and monthly or annual payments for condominium or homeowner's association dues.
- A 1993 evaluation report of Santa Monica's TORCA legislation suggests that there was a substantial loss of affordable units as a result of TORCA. Nonetheless, the legislation did make homeownership opportunities available for median and moderate-income households within a price range otherwise not available in the housing market.
- Although good information on the proportion of original tenants who purchased units converted through TORCA was not available, available data suggests that the actual proportion is close to 12%.
- According to the TORCA evaluation report, 20% of tenants participating in a phone survey indicated that they had been pressured to sign conversion forms and 17% indicated that they were offered money to move out of their units. The actual number of tenants experiencing these events is likely to be higher, due to methodological issues with the report's research design.
- From 1979 to 1982, San Francisco allowed a maximum of 1,000 conversions per year provided that 40% of tenants indicated intent to purchase their units. Documentation indicates that the policy was changed in 1982 in response to several concerns, including a small proportion of tenants purchasing their units; a large number of unsold condominiums relative to low rental vacancy rates; the conversion of large rental buildings; and the difficulty of enforcing tenant protections.

## **BACKGROUND**

### **CURRENT CITY POLICY ON CONDOMINIUM CONVERSIONS**

Multi-unit rental properties can be converted into condos through a process governed by the City's Subdivision Code and the State's Subdivision Map Act. According to the Department of Public Works (DPW) Condominium Conversion application package, a condo is characterized as consisting of an "individually owned 'unit' and a 'common area'". The unit is the space within the walls, floors and ceilings of a particular dwelling and the common area is the remainder of the property.<sup>1</sup> Typically, owners pay their own mortgages, property taxes, and utilities in addition to monthly homeowner association dues to cover repair and provide insurance for the common areas. Condos differ from apartment buildings or multi-unit rental complexes in that condos can be separately sold to individual purchasers. Currently, San Francisco limits condo conversions to residential rental properties of 2-6 units. San Francisco restricts conversions to an annual pool of 200 units, and to a second pool of 200 units that may convert subject to re-sale price and other restrictions. An unlimited number of 2-unit buildings may convert subject to certain restrictions.

The Board of Supervisors enacted the McGoldrick tenancies-in-common law on August 8, 2001, which is reflected in the current conversion process. A lawsuit has postponed the implementation of a portion of the new regulations, but others have taken effect. In effect, the law has increased tenant participation requirements for conversion; allowed two-unit buildings to bypass the conversion lottery if either unit is occupied for one year by an owner of at least 25% interest in the property; and provisions allowing an additional pool of 200 units to convert subject to certain tenant participation requirements and resale price restrictions. Elements of the law that will not go into effect until litigation is resolved include the ability of 3-6 unit buildings in which all units were owner-occupied on July 15, 2001 to bypass the lottery during a special two-year amnesty program and restrictions on the formation of tenancies-in-common which will also be required to go through the conversion process.

### **CURRENT STATUS OF THE LEGISLATION AND INITIATIVE**

The Home Ownership Program for Equity (HOPE-L) was assigned to the Public Works and Public Protection Committee on March 3, 2002 and subsequently transferred to the Transportation and Commerce Committee on April 24, 2002. As of May 23, 2002, HOPE-L (Board of Supervisors File # 020489) is pending committee action in the Transportation and Commerce Committee. If passed, the HOPE legislation would amend the San Francisco Subdivision Code by adding Article 11, consisting of Sections 1399.1 through 1399.16 to permit the conversion of existing residential buildings to residential condominium or other ownership subject to certain requirements.

Joe Capko, co-founder of Tenants for Homeownership, subsequently filed notice of an intention to circulate a petition for the purpose of enacting the similar initiative ordinance, Home Ownership Program for Everyone (HOPE), with the San Francisco Department of Elections on April 26, 2002. On July 19, 2002, the Department of Elections determined that HOPE had received enough signatures to qualify for the November 2002 ballot.

According to staff from the sponsor's office (Supervisor Hall), the legislation (HOPE-L) will "with 99.9% certainty" be withdrawn now that the initiative (HOPE) has successfully qualified for the ballot. However, as of the writing of this report, HOPE-L remains active at the call of the chair of the Transportation and Commerce

<sup>1</sup> City and County of San Francisco, Department of Public Works, "Condominium Conversion in San Francisco," Sept. 17, 2001. It should be noted here that while this report refers to individual units or condos throughout, it does not necessarily mean one bedroom or one tenant units. In many instances with multi-bedroom units, therefore, there may be multiple tenants with leases or subleases.



Committee. Except as noted in key provisions below, the HOPE-L legislation and HOPE-I initiative are significantly similar to refer to them collectively as HOPE in the remainder of this document.

## COMPARISON OF CURRENT SUBDIVISION CODE AND HOPE

### 1. SUMMARY

HOPE would alter existing conversion policy by creating a new, separate program for the conversion of multi-unit rental properties to condos governed by a new set of regulations and requirements. The existing condo conversion process would continue to co-exist with HOPE. In order to gain an understanding of the initiative, this section compares the current subdivision code to that proposed under HOPE.

Briefly stated, the new process would open conversions to buildings of any size, including those with more than 6 units. HOPE would increase the number of annual allowable conversions by setting the maximum number of conversions at one percent of the housing stock in San Francisco for a period of 25 years (an annual average of over 3,500 units<sup>2</sup>). Similar to certain provisions of the current code, HOPE would require signed intent to purchase forms by a specific proportion of tenants. Under HOPE, all non-purchasing tenants have the right to lifetime leases that limit rent increases and contain eviction protections. Under the current code, tenant lease rights differ according to which method is used to satisfy eligibility requirements. In some cases, all non-purchasing tenants have the right of a lifetime lease. In other cases, only senior and disabled tenants have the right to lifetime leases and other non-purchasing tenants have the right to a one-year lease. Leases pursuant to the current code provide all of the protections of the San Francisco Rent Ordinance. Under amendments to the Costa Hawkins Act the rent control protections continue to apply after conversion if the unit is not "separately sold." However, if the unit is sold after conversion, the provisions of the Rent Ordinance would no longer apply. Finally, the HOPE initiative (HOPE-I), unlike the legislation, may limit City Code compliance to only those applicable laws that were in effect for similar multi-resident structures in the City as of the date the building was constructed

Exhibit 1 summarizes these and other differences between key provisions of the current subdivision code and HOPE. Further detail on these differences is provided in the narrative section following the chart.

### Exhibit 1. Differences in Key Provisions of the Current Subdivision Code and HOPE

Topic	Current Subdivision Code	HOPE
Limit on Conversions	400 units per year (200 in Pools B & C, 200 in restricted Pool A), plus an unlimited number of 2-unit conversions subject to certain restrictions; unused conversions do not carry forward to subsequent years	An estimated 3,546 units per year for the next 25 years; 200 units per year thereafter; unused conversions carry forward to subsequent years
Limit on Property Size	2-6 unit properties	None
Tenant Intent to Purchase Requirements	1) <u>Owner-Occupancy method (Pools B &amp; C)</u> : one tenant in 3-4 unit buildings or 2 tenants in 5-6 units buildings 2) <u>Renter-Buyer method (Pool A)</u> : 50% of tenants.  Tenants may not be owners of the buildings to qualify.	40% of tenants in 2-6 unit buildings; 33% in 7-12 unit buildings; and 25% in 13 or more unit buildings.  Tenants may be an owner of the building.
Non-Purchasing	1) <u>Owner-Occupancy method</u> : All non-purchasing	All non-purchasing tenants have a right to a lifetime

<sup>2</sup> Please refer to Appendix A for the calculation of this estimate.

<b>Tenant Lease Rights</b>	tenants have right to one-year lease; disabled and senior tenants have right to lifetime lease 2) <b>Renter-Buyer method:</b> All non-purchasing tenants have right to lifetime lease Leases provide all of the protections of the current Rent Ordinance, including limits on rent increases and eviction protections described below.	lease that limits rent increases and provides eviction protections described below.
<b>Non-Purchasing Tenant Eviction Protections</b>	Limited evictions permitted as allowed by statute, including Owner-move-in. Senior, disabled and terminally ill tenants protected from Owner-move-in evictions.	Limited evictions permitted as allowed by statute. Owner-move-in is not included in list of permitted evictions.
<b>Conformity with Code</b>	For Final Map approval, in addition to requirements of State law, all applicable provisions of City's Codes: <ul style="list-style-type: none"> <li>• Must be met or violations corrected</li> <li>• Or, funds be adequately escrowed or bonded to assure completion of corrective work prior to the closing of escrow of any unit in the project</li> </ul>	The HOPE legislation and initiative differ in this respect. Under the initiative, a building may be required to comply only with the applicable laws that were in effect for similar multi-resident structures in the City as of the date the building was constructed, along with reasonable health or safety requirements. The legislation has no corresponding provision.

## 2. LIMIT ON NUMBER OF CONDO CONVERSIONS

Under the current code, 200 units may convert after winning an annual lottery process. If there are fewer units being converted than the allowable limit for any given year, the remainder may not carry over into subsequent years. Applications are accepted for an additional pool of 200 units subject to re-sale price, tenant income levels and other restrictions. Two-unit buildings may convert without participating in the lottery process if an owner of at least a 25% interest in the property occupies either unit for one year.

HOPE would increase the annual allowable conversion limit by one percent of the housing stock in San Francisco, as reported in the Planning Department's *Housing Inventory*, for the first 25 years that the legislation is in effect. Thereafter, HOPE conversions would be limited to 200 units per year (in addition to the existing subdivision process). If there are fewer units being converted than the allowable limit for any given year, the remainder may carry over to subsequent years. Based on housing stock projections, HOPE would allow an average of 3,546 conversions per year for the next 25 years<sup>3</sup>.

## 3. ELIGIBILITY REQUIREMENTS

This section describes eligibility requirements that must be met in order for a rental property to qualify for participation in the condo conversion process under the current code and those proposed under HOPE.

### a. Eligible Properties

Under the current code, only 2-6 unit properties may convert. HOPE would allow buildings of any size to convert. HOPE also requires that owners seeking to convert a property shall not have 1) performed an Owner-move-in eviction<sup>4</sup> in the past five years; 2) given a tenant compensation to vacate in the past five years, or 3) performed an Ellis Act eviction<sup>5</sup> for the past 10 years.

<sup>3</sup> Please refer to Appendix A for the calculation of this estimate.

<sup>4</sup> Owner-move-in, or owner-occupancy evictions, occur when an owner wishes to occupy a unit s/he is currently renting to a tenant. Such evictions are governed by a set of regulations pertinent to both the owner and the tenant.

<sup>5</sup> The Ellis Act is a state law, which became operative July 1, 1986 and requires municipalities to allow property owners to go out of the rental business.

### ***b. Tenant and Owner Participation***

**Current Code** – Under the current code, there are three methods by which tenant and/or owner participation requirements may be satisfied:

- **Owner-Occupancy**: Under this method, signed intent to purchase forms are required by tenants of at least one unit in a 3-4 unit building and at least two units in a 5-6 unit building. An intent to purchase form states that the tenant intends to buy his/her unit as a condo. S/he may later decide not to buy the unit. This method applies when one unit has been owner-occupied for three years prior to lottery entry.
- **Renter-Buyer**: Under this method, two requirements must be met: 1) signed intent to purchase forms are required by all tenants in at least 50% of the units, and 2) all non-purchasing renters have been given the right to lifetime leases. Each of the purchasing renters must have lived at the property for one year prior to lottery entry and a certain percent of the tenants must qualify as median income. No owner-occupants are required for participation under this method.
- **Lottery Bypass**: Two-unit buildings may bypass the conversion lottery if either unit is occupied by an owner of at least a 25% interest in the property for one year prior to application. In addition, certain tenancies-in-common that were 100% owner-occupied as of a certain date may bypass the lottery. This provision is on hold pending the resolution of the litigation over the tenancies-in-common legislation mentioned in the Background section on page 3.

In both the Owner-Occupancy and Renter-Buyer methods, tenants may not have an ownership interest in the building. In addition, under both Owner-Occupancy and Renter-Buyer methods, intent to obtain a lifetime lease by tenants aged 62 or older, or by permanently disabled tenants, is acceptable in place of minimum intent to purchase requirements.

**HOPE** – In order to apply for conversion under HOPE, signed intent to purchase forms are required by the following percentage of tenants who have continuously occupied a unit at the property for the previous two years:

- 2-6 unit buildings – at least one eligible purchaser from 40% of the units
- 7-12 unit buildings – at least one eligible purchaser from 33% of the units
- 13 or more unit buildings – at least one eligible purchaser from 25% of the units

A person may qualify as an eligible purchaser under HOPE if they: (1) are an owner or a tenant with an express written or oral agreement directly with the owner, (2) currently reside at the property, (3) have done so continuously for the previous two years, and (4) apply only once within a seven-year period.

## **4. TENANT RIGHTS AND PROTECTIONS**

This section describes tenant rights and protections pursuant to the conversion process under the current subdivision code and those proposed under HOPE.

### ***a. Leases and Rents for Non-Purchasing Tenants***

Under the current code, lease requirements differ according to which method is used to satisfy the participation requirements. Under the Owner-Occupancy method, all non-purchasing tenants have the right to one-year rent controlled leases and all disabled and senior non-purchasing tenants have the right to lifetime rent controlled leases. Under the Renter-Buyer method, non-purchasing tenants have the right to lifetime leases. These leases provide tenants with all of the protections of the Rent Ordinance, including limits on rent increases, capital

improvement passthroughs, eligibility for Rent Board arbitration and counseling, and eviction protections (discussed below).

Under HOPE, all non-purchasing tenants have the right to a lifetime lease that limits rent increases to that rent charged on the date the application is submitted, plus any subsequent annual increases. The legislation and the initiative differ on the annual allowable increases in rent. The HOPE legislation (HOPE-L) limits these subsequent annual increases to those permitted by the Rent Ordinance. In the event the Rent Ordinance is no longer in effect, increases are limited to the percent increase in the regional Consumer Price Index and may not be made more than once per year. The HOPE initiative (HOPE-I) limits these increases to 60% of the regional Consumer Price Index. Lifetime leases associated with both versions of HOPE also contain eviction protections, described in the following section.

The HOPE initiative (HOPE-I) does not address tenant rights and protections afforded in certain multi-tenant situations. For example, it is unclear what protections, if any, would be afforded to a non-eligible tenant (one for instance without an express oral or written agreement with the owner) in a three bedroom unit where all other eligible tenants decline to purchase.

### **b. Eviction Protections**

Under the current Rent Ordinance, tenants can be evicted only for 14 "Just Cause" reasons for eviction. Owner-move-in is included within the 14 "Just Cause" reasons. Under HOPE, tenants with lifetime leases can be evicted only for reasons included on a list of "Permitted Evictions." The following list includes evictions that are included in the 14 "Just Cause" reasons under the current Rent Ordinance, but *would not be permitted* under HOPE:

- Owner occupancy (e.g., Owner-move-in)<sup>6</sup>
- Tenant refusal to renew lease
- Unapproved subtenant
- Condominium conversion or demolition of property
- Temporary tenant relocation due to capital improvements, rehabilitation or lead remediation/abatement
- Withdrawal of rental units contained in a detached physical structure

Ellis Act evictions are not included in the 14 "Just Cause" reasons or in HOPE's "Permitted Evictions," as they are provided for by state law<sup>7</sup>.

### **c. Right to Purchase**

Under the current code, tenants have the right of first refusal in purchasing their units at a price established by the owner. After waiver or termination of this right, owners can sell to outside purchasers.

Under HOPE, each tenant has the right to purchase his or her unit; owners can not sell to outside purchasers until escrow has closed on sales to "eligible purchasers" of 25% of the units in the building. With respect to tenants who sign an intent to purchase form, the right to purchase shall be at a price negotiated between the two parties and stated on the form. With respect to tenants who did not sign an intent to purchase form, the selling price shall be no greater than the price at which the unit would be offered to the general public.

<sup>6</sup> Under the current code, senior, disabled, and terminally ill tenants are protected from Owner-move-in evictions.

<sup>7</sup> The Ellis Act is a state law effective July 1, 1986, which requires municipalities to allow property owners to go out of the rental business.

Specifically, under HOPE the subdivider must notify the tenant of the right to purchase within 30 days of the Department of Real Estate's issuance of the Final Subdivision Public Report for 5+ unit properties or the recordation of the subdivision map for 4-or-fewer-unit properties. The tenant then has 180 calendar days following the date the offer to purchase is made to execute a binding, non-contingent purchase and sale agreement.

#### ***d. Right to Use Common Areas***

Under the current code, all condos must submit a document describing the rights and duties of the owners that includes information regarding how common areas are used. Under HOPE, non-purchasing tenants retain their pre-conversion rights to use certain common areas of the property.

### **5. ANTI-SPECULATION CLAUSES**

Speculation typically refers to taking large risks in the hopes of making quick, large gains. The current code contains no specific anti-speculation clauses. Under HOPE, condo purchasers who resell their units during a two-year period following conversion must pay a fee calculated as a percentage of net profit – 20% if the unit is sold within 12 months, or 10% if unit is sold between 13 and 24 months. Owners who demonstrate that they did not or could not reasonably foresee that they might be required to resell their unit are exempted from payment. Fees shall be paid to a fund to be used for purposes specified by the Mayor's Office of Housing. The name of this fund differs between the legislation and the initiative. The legislation (HOPE-L) calls this fund the Citywide Affordable Housing Fund whereas the initiative (HOPE-I) calls this the First-Time Buyer Downpayment Assistance Loan Fund.

### **6a. APPLICATION OF RENT CONTROL TO CONVERTED UNITS**

Rent protections can be afforded both to units and to tenants. Rent control applies specifically to units whereas other rent protections described below apply to specific tenants.

There is no difference between the application of rent control to units converted under the current code and those that would be converted under HOPE.

The application of local and state rent control laws differs according to whether a unit was built after or before 1979. Buildings built after 1979 are not subject to rent control. Similarly, converted units in buildings built after 1979 are not subject to rent control. With respect to converted units in buildings built before 1979, units that *have not been sold* separately by the subdivider to a bonafied purchaser for value fall under the provisions of local and state rent control laws. Converted units that *have been sold* separately by the subdivider to a bonafied purchaser for value who meet certain criteria do not.

### **6b. OTHER RENT PROTECTIONS**

Under the current code, non-purchasing tenants in Pool A (the Renter-Buyer method) and non-purchasing senior and disabled tenants in Pools B and C (the Owner-Occupancy method), have the right to lifetime leases. Non-purchasing tenants in Pools B and C who do not qualify as senior or disabled have the right to one-year leases.

Under HOPE, all non-purchasing tenants have the right to a lifetime lease.



## 7. APPLICATION PROCESS

This section lists documents required under the current subdivision code that would not be required under HOPE and summarizes key differences in the procedural requirements.

### ***a. Information Required Under Current Code, Not Required Under HOPE***

The following information is required under the current subdivision code, but would not be specifically required under HOPE: Building Inspector's report; list of planned repairs and improvements; copies of management documents; existing uses of the property, including existing tenancies and the conditions and terms thereof; Geologic Conditions Statement or a Soil Report; declaration that all applicable provisions of City Housing, Building, and Planning Codes have been met or corrected, or that funds are adequately escrowed to complete necessary corrective work; rental history; list of tenant contacts; and sales and leasing prices. For additional information on the function and purpose of such information, please refer to Appendix C.

### ***b. Procedural Requirements and Deadlines***

The procedural requirements and deadlines under HOPE would differ from those of the current subdivision code in three primary ways, as detailed below:

- *Tenant Notice* – Responsibility for mailing notice to tenants of a HOPE application submittal and a document detailing their rights will change though not significantly. Under the current code, the subdivider is responsible for providing the information. Under HOPE, the Director of the Department of Public Works (DPW) would be responsible. In both cases the applicant will be required to submit addresses and the Department will send out the notices.
- *Public Hearing* – HOPE puts a limit on the number of days that the Director of DPW would have to hold a public hearing regarding a HOPE conversion. After receipt of a hearing request, the Director would have 21 days to hold a hearing under HOPE, whereas the current code provides no deadline except that it must occur prior to the Department's issuance of tentative approval.
- *Time to Determine Complete* – HOPE shortens the days within which the Director of DPW must notify a HOPE applicant of the items necessary to complete an application from 30 days to 15 days. If notification is not given within 15 days under HOPE, the application will be deemed filed on the 15<sup>th</sup> day.

Additional information on procedural requirements and deadlines and the role and function of City Agencies under HOPE can be found in Appendices D and E.

## 8. CONFORMITY WITH CODE

Under the current code, in addition to requirements of state law, for Final Map approval, all applicable provisions of City's Codes must be met or corrected or funds must be adequately escrowed or bonded to assure completion of corrective work prior to the closing of escrow of any unit in the project.

The HOPE legislation (HOPE-L) has no language specific to code conformity. Section 1399.12 of the HOPE initiative (HOPE-I) states that, "The building may be required to comply only with the applicable laws, including the building, safety, and zoning codes, that were in effect for similar multi-resident structures in the City as of the date the building was constructed, along with reasonable health or safety requirements..." The impact and enforceability of this Section, should the initiative be approved by the voters in November, is beyond the scope of this report.



## **CASE STUDY 1: SANTA MONICA'S TORCA LEGISLATION**

### **1. BACKGROUND**

In an effort to better gauge the potential outcomes of the HOPE initiative, the Board of Supervisors requested the Legislative Analyst to examine similar legislation that was passed in Santa Monica, CA. In 1984, Santa Monica voters approved the Tenant Ownership Rights Charter Amendment (TORCA). This legislation allowed the unlimited conversion of existing apartment buildings to condos, provided that a sufficient number of tenants agreed to purchase their units and a sufficient number approved of the conversion. The provisions of the TORCA law ended on June 30, 1996 due to a sunset provision included in the amendment. Properties that submitted conversion applications prior to that date remained eligible for conversion.

According to the text of the charter amendment, TORCA had three primary objectives:

- To permit tenants to enjoy the stability, security and financial benefits of ownership
- To provide protection to participating tenants who choose not to purchase their units
- To promote affordable housing opportunities for low and moderate income households

At the time that the TORCA legislation was in effect, Santa Monica exhibited characteristics similar to San Francisco's current housing situation. First, Santa Monica and San Francisco were similar in terms of the proportion of owner- and renter-occupied units. According to data from the 1990 Census, 28% (12,340) of Santa Monica's occupied units were owner-occupied and 72% (32,520) were renter-occupied<sup>8</sup>. Second, Santa Monica exhibited high housing prices. The median value for all owner-occupied housing in Santa Monica in 1990 was over \$500,000, the highest category reported on the U.S. Census<sup>9</sup>. Third, the majority of Santa Monica's renter-occupied units were rent-controlled<sup>10</sup>. However, state law pursuant to vacancy decontrol<sup>11</sup> was not in effect in Santa Monica during the TORCA time period and Ellis Act evictions became operative July 1, 1986, two years after the initial approval of TORCA.

### **2. COMPARISON OF TORCA AND HOPE**

Similar to HOPE, the TORCA legislation allowed conversion of existing rental units to condos provided that a specific proportion of tenants indicated intent to purchase their units. Nonetheless, there are differences between key provisions of TORCA and HOPE. The following table summarizes these differences.

**Exhibit 2. Comparison of Key Provisions of TORCA and HOPE**

Topic	Santa Monica's TORCA Legislation	HOPE
<b>Tenant Agreement to Conversion</b>	Conversion application must be signed by at least 2/3 of eligible tenants agreeing to the conversion.	No corresponding provision.
<b>Tenant Intent to Purchase</b>	Intent to purchase forms must be submitted by at least one eligible purchaser from 50% of units.	Intent to purchase forms must be submitted by at least one eligible purchaser from a percentage of tenants: <ul style="list-style-type: none"> <li>• 2 – 6 units: at least 40%</li> <li>• 7 – 12 units: at least 33%</li> <li>• 13+ units: at least 25%</li> </ul>
<b>Annual Allowable</b>	Unlimited.	For the first 25 years, 1% of the housing stock may

<sup>8</sup> *City of Santa Monica Community Profile*. Lee Mizell, RAND Institute, March 2002. Santa Monica, CA. According to the 2000 U.S. Census, 35% of San Francisco's occupied units were owner-occupied and 65% were renter-occupied.

<sup>9</sup> *Analysis of Impediments to Fair Housing Choice*. Santa Monica City Attorney's Office, April 2002.

<sup>10</sup> Phone interview with Mary Ann Yurkonis, Director, Santa Monica Rent Control Board, June 24, 2002.

<sup>11</sup> Vacancy decontrol allows a landlord to charge market rent to a new tenant who moves in to fill a vacancy.

<b>Conversions</b>		convert per year. Thereafter, the cap is at 200 units per year. Unused conversions may carryover to subsequent years.
<b>Rent Control Protections for Non-Purchasing Tenants</b>	Converted units were to remain under rent control permanently. However, subsequent state laws limited rent control on converted condos <sup>12</sup> .	Non-purchasing tenants have the right to a lifetime lease that limits rent levels.
<b>Eviction Protections for Non-Purchasing Tenants</b>	Senior and disabled non-purchasing tenants may not be evicted under Owner Move-In, the Ellis Act <sup>13</sup> or for demolition of the unit. All other non-purchasing tenants may not be evicted under the Ellis Act or for demolition of the unit for a period of 5 years or under Owner Move-in.	Tenants with lifetime leases may only be evicted on specific grounds. Ellis Act and Owner Move-In evictions are not included in the list of permitted evictions.
<b>Tax</b>	City may collect an amount equal to 12 times the monthly maximum allowable rent for each converted unit, to assist low and moderate income tenants with homeownership and to increase the supply of affordable housing. (Note: These programs are discussed below.)	No corresponding provision.
<b>Right to Purchase</b>	Non-purchasing tenants retain the exclusive right to purchase their unit at the originally offered sales price for a period of 2 years.	A tenant who has signed an intent to purchase form retains the right to purchase at the price agreed upon in the form for 180 calendar days following the date the offer to purchase was made. A tenant who has not signed an intent to purchase form may purchase his or her unit at a price offered to the general public.
<b>Resale Controls</b>	Individuals permitted to re-sell units.	Individuals who re-sell units during the 2 year period after conversion must pay a fee, unless they can demonstrate that they did not or could not reasonably foresee that they might be required to resell their unit.

### 3. OUTCOMES OF THE TORCA LEGISLATION

Based on existing reports and memorandums as well as interviews with City of Santa Monica staff, this section summarizes outcomes of the TORCA legislation, where information was available. In particular, this section addresses the number of units that converted under TORCA, tenant purchase of converted units, purchase price and affordability of TORCA units, etc.

#### *a. Number of Converted Units*

As of June 30, 2001, the Santa Monica Planning Commission and City Council had approved the conversion of 324 properties containing 3,243 total units under TORCA<sup>14</sup>. On average, the TORCA legislation resulted in the approval for conversion of 0.6% of Santa Monica's housing stock each year during the twelve-year period that

<sup>12</sup> For more information on the impact of state laws on TORCA, please refer to the section of this report titled *Legal Challenges to TORCA*.

<sup>13</sup> The Ellis Act is a state law effective July 1, 1986, which requires municipalities to allow property owners to go out of the rental business.

<sup>14</sup> Rent Control Board Annual Report: July 2000 through June 2001. Santa Monica Rent Control Board, February 7, 2002.

the legislation was in effect<sup>15</sup>. Buildings converted under TORCA ranged from two to 72 units, with an average project size of 11 units and a median project size of 7 units<sup>16</sup>.

### ***b. Trends in Condo Conversions***

Prior to TORCA, Santa Monica municipal code prohibited condo conversions<sup>17</sup>. The TORCA charter amendment altered this provision to allow condo conversions approved in accordance with its provisions. In addition, the legislation stated that, "The General Plan of the City shall at all times contain a provision that the Tenant Ownership Rights Charter Amendment shall be the only procedure by which a multifamily conversion may be approved<sup>18</sup>." Now that the TORCA legislation has expired, condo conversions are again prohibited until "rental units demolished or converted in 1978 and 1979 are replaced<sup>19</sup>."

### ***c. Converted Units Purchased by Tenants Residing in Rental Units Prior to Conversion***

Current information on the percentage of converted units purchased by tenants residing in rental units prior to conversion is not available. Santa Monicans for Renter's Rights (SMRR), a tenant advocacy organization, estimates that 8% of all units converted under TORCA were purchased by their renter-occupants<sup>20</sup>. However, no source documentation is available for that number at this time. An evaluation report conducted by the City of Santa Monica in 1993 estimates the percentage of *sold* TORCA units purchased by participating tenants (40%), but does not estimate the percentage of *converted* units purchased by participating tenants<sup>21</sup>. However, several methodological issues suggest that this number is imprecise. For example, tenants who owned or partially owned the building prior to conversion were included in the calculation.

While it is impossible to accurately state the proportion of converted units bought by tenants, available data suggests that the actual proportion is close to 12%<sup>22</sup>.

It may be possible to obtain a more current estimate by cross-referencing TORCA conversion applications on file with the Santa Monica Planning Department with property tax records held by the Los Angeles County Assessor's Office; these records may be recalled for a fee. Such an analysis would require manual review of paper files in Santa Monica and matching of individual case records by hand, a process that could not be conducted in the time period necessary for completion of this report.

### ***d. Purchase Prices of Converted Units***

According to an evaluation report issued in 1993, sales prices of TORCA units ranged from \$16,500 to \$742,000, while the average price was \$196,990. The median price was \$185,000<sup>23</sup>. These calculations include tenants that had an ownership interest in the building prior to conversion. It is possible that purchase prices for

<sup>15</sup> This figure is calculated by dividing the number of conversions approved (3,385 units) by the number of years the legislation was in effect (12 years), and dividing the result by the number of units in the housing stock (47,437 units).

<sup>16</sup> *TORCA Evaluation Report*. Land Use and Transportation Management Department, Program and Policy Development Division, City of Santa Monica, February 1993.

<sup>17</sup> Santa Monica Municipal Code, Article 20 § 9.04.16.02.010(j).

<sup>18</sup> Santa Monica Municipal Code, Article 20 § 18.

<sup>19</sup> Santa Monica Municipal Code, Article 20 § 9.04.16.02.010(j). 1979 was the year Santa Monica's Rent Ordinance went into effect.

<sup>20</sup> *SMRPH: Snake Oil with a 99-Year Scent*. Denny Zane and Michael Tarbet, Santa Monicans for Renter's Rights.

<sup>21</sup> <http://www.smrr.org/>

<sup>22</sup> *TORCA Evaluation Report*. Land Use and Transportation Management Department, Program and Policy Development Division, City of Santa Monica, February 1993.

<sup>23</sup> Please refer to Appendix F for the calculation of this estimate.

<sup>24</sup> *TORCA Evaluation Report*. Land Use and Transportation Management Department, Program and Policy Development Division, City of Santa Monica, February 1993.

these tenants were lower than for tenants with no ownership interest, which would under-estimate the purchase prices paid by tenants who did not own or partially own the property.

The same report includes an analysis comparing TORCA purchase prices to prices of comparable condos. Purchase prices of TORCA units were first compared to non-TORCA condos built during the same time period. The authors of the evaluation report observed, "Buildings originally built as condominiums have more parking, more amenities, and frequently more interior living and storage space than buildings originally constructed as apartments. Thus, TORCA condominiums are generally believed to be somewhat different from non-TORCA condominiums."

They also compare the prices of TORCA units to condos that were converted from rental units in nearby coastal communities. The report concluded that, "Prices of non-TORCA condominiums in Santa Monica are approximately double the prices of TORCA units, while the prices of [converted units in nearby coastal communities] are much closer to the TORCA units<sup>24</sup>."

#### ***e. Mortgages and Downpayments***

The City of Santa Monica did not track mortgages or downpayments on TORCA units. However, assuming a downpayment equal to 20% of the sale price, an interest rate of 8% and a 30-year mortgage period (all common for the time period), it is possible to estimate these figures<sup>25</sup>. Using data from the 1993 evaluation report, the following table provides these estimates. These estimates do not include closing costs, utilities, home insurance, condo association dues, property taxes, mortgage payment tax deductions, or other costs and benefits of home ownership, which can be significant.

**Exhibit 3: Estimated Homeownership Payments on TORCA Units**

Sales Price Category	Sales Price	Estimated Downpayment	Estimated Monthly Mortgage Payment
Average	\$ 196,990	\$ 39,398	\$ 1,156
Median	\$ 185,000	\$ 37,000	\$ 1,086
Minimum	\$ 16,500	\$ 3,300	\$ 97
Maximum	\$ 742,000	\$ 148,400	\$ 4,356

#### ***f. Comparison of Mortgage Payments to Rent Payments***

The City of Santa Monica does not have information on the rent payments of tenants prior to purchase and the subsequent rent payments of non-purchasing tenants. However, the 1993 evaluation report indicates that 1991 maximum allowable rents set by the Rent Control Board ranged from \$26 to \$2,855, while the average price

<sup>24</sup> The average price of a two-bedroom TORCA unit was \$167,295, the average price for non-TORCA condominium unit in Santa Monica was \$310,910 and the average price for a condo conversion in nearby coastal communities was \$193,164.

<sup>25</sup> The formula used to calculate monthly mortgage payments is  $p = [(r \cdot m) / (1 - [(1 + (r/n))^{(-nt)}])]/n$ , where  $p$ =monthly payment;  $m$ =principle or loan amount;  $r$ =interest rate;  $n$ =number of payments per year;  $t$ =number of years mortgages (ie. 30 year mortgage) from [www.sosmath.com](http://www.sosmath.com). This analysis assumes a 20% down payment, 8% interest rate and 30 year mortgage, based on a similar analysis conducted for the 1993 TORCA Evaluation Report. NOTE: While traditional lenders have required that home buyers make a down payment of at least 20% of the purchase price, low down payment mortgages backed by mortgage insurance are increasingly popular. These mortgage arrangements would reduce the estimated downpayment and increase the monthly mortgage payment.



was \$626<sup>26</sup>. The median price was \$561. The following exhibit compares estimated mortgage payments of tenants who purchased TORCA units between 1984 and 1993 and rent payments of tenants in 1991. Rent payments of non-purchasing tenants who remained in their units until 2001 are estimated using this latter information and the general rent adjustments permitted by the Santa Monica Rent Control Board since that time<sup>27</sup>. Again, these estimates do not include closing costs, utilities, home insurance, condo association dues, property taxes, and other costs and benefits such as tax exemptions associated with homeownership.

#### Exhibit 4: Comparison of 1991 and 2001 Rent Payments to Mortgage Payments

Category	Estimated Monthly Mortgage Payment	Estimated Rent Payment, 1991	Estimated Rent Payment, 2001
Average	\$ 1,156	\$ 626	\$ 913
Median	\$ 1,086	\$ 561	\$ 834
Minimum	\$ 97	\$ 26	\$ 249
Maximum	\$ 4,356	\$ 2,855	\$ 3,468

#### g. Sources of Financing

The TORCA legislation adopted in 1984 required that the City of Santa Monica implement an ownership assistance program for low and moderate-income households renting TORCA units at the time of conversion to assist them in purchasing their units. The TORCA Shared Appreciation Loan Program is funded by a portion of the taxes levied on units that have converted to condos through the TORCA process. Program guidelines have been amended on several occasions to expand the eligibility guidelines for qualifying households in order to attract more loan program participants<sup>28</sup>.

Under the loan program currently in place, the City makes loans to qualifying low and moderate-income households residing in TORCA units, to assist them in purchasing their units<sup>29</sup>. These loans are available both to tenants who were present at the time of conversion and subsequent tenants of TORCA units. Loans are available for up to \$75,000, depending on household size, condo size, purchase price and household income.

As of June 2001, approximately \$9.2 million had been collected for the loan program<sup>30</sup>. However, only 50 loans totaling \$2.7 million had been disbursed, leaving over \$6 million in unused funds. In addition, these 51 loans represent less than 2% of converted units. Low loan volume has been attributed to several factors, including delays in loan processing; complexity of the application process; lack of qualified applicants; subsidy

<sup>26</sup> TORCA Evaluation Report. Land Use and Transportation Management Department, Program and Policy Development Division, City of Santa Monica, February 1993.

<sup>27</sup> Estimated 2001 rent payments are based on the general rent adjustments permitted by the Santa Monica Rent Control Board from 1992 to 2001, listed on their web site. [http://www.santa-monica.org/rentcontrol/rent\\_levels/surcharges%202001.pdf](http://www.santa-monica.org/rentcontrol/rent_levels/surcharges%202001.pdf) This method of analysis is because the majority of units that converted were rent-controlled.

<sup>28</sup> Staff Report: Modifications to the TORCA Shared Appreciation Loan Program Guidelines. Santa Monica Housing Division, July 23, 2002.

<sup>29</sup> TORCA Shared Appreciation Loan Program 2002 Information Package. Santa Monica Housing Division, April 11, 2002.

<sup>30</sup> Staff Report: Background Information Concerning Tenant Participating Conversion Tax Revenues. Santa Monica Housing Division, June 21, 2001.

size; escalating condo prices; and a strong real estate market whereby owners have been able to find buyers who qualify for private financing<sup>31, 32</sup>.

Because loan volume is less than anticipated, Santa Monica's Mayor and City Council are currently reviewing staff recommendations to further modify the loan program and to re-allocate funds available for TORCA loans to other projects<sup>33</sup>.

#### ***h. Current Value of TORCA Condominiums***

The City of Santa Monica does not track information regarding the current value of tenant-purchased condos. According to the Santa Monica office of Coldwell Banker Real Estate<sup>34</sup>, the value of tenant-purchased condos in Santa Monica has never been tracked separately from the value of all condos. Therefore, it is not possible to determine the increase in value of tenant-purchased condos and the consequent equity increase of tenants who purchased TORCA units.

#### ***i. Beneficiaries of TORCA – Original Tenants vs. Prospective Buyers***

The Board of Supervisors requested that the Office of the Legislative Analyst identify the likely beneficiaries of HOPE – existing tenants living in units to be subdivided or prospective buyers who will move into units after offering incentives for existing tenants to move out of their apartments – based on Santa Monica's experience with TORCA. Because the City of Santa Monica did not collect information on such transactions, it is not possible to assess likely beneficiaries in this manner.

#### ***j. Legal Challenges to TORCA***

According to Barry Rosenbaum, Senior Land Use Attorney for the City of Santa Monica, no provisions of TORCA have ever been judicially invalidated<sup>35</sup>. However, the original TORCA legislation included a provision mandating that converted units remain subject to Santa Monica's rent control ordinance, both for non-purchasing tenants and all subsequent tenants of converted units. When TORCA was first passed, Santa Monica possessed a very strict rent control ordinance regulating all multi-unit residential buildings built before April 1979. Enacted as the result of a citizen initiative, the law provided that the legal rent for controlled units be equal to the base rent from 1978 plus any subsequent increases approved by the Rent Control Board. In addition, the law did not permit vacancy decontrol, whereby a landlord may charge market rent to a new tenant who moves in to fill a vacancy.

A State law passed in 1996, known as the Costa-Hawkins Act, mandated vacancy decontrol for all rent-controlled units. The Act also exempted all condos from rent control, except for those units with tenants that began their tenancy prior to January 1996. Consequently, the Santa Monica Rent Board amended their regulations to remain consistent with this State law<sup>36</sup>. As a result, converted units rented by tenants not present at the time of conversion were no longer rent-controlled. However, recent State legislation introduced by

<sup>31</sup> Staff Report: Modifications to the TORCA Shared Appreciation Loan Program Guidelines. Santa Monica Housing Division, July 23, 2002.

<sup>32</sup> Staff Report: Background Information Concerning Tenant Participating Conversion Tax Revenues. Santa Monica Housing Division, June 21, 2001.

<sup>33</sup> E-mail communication with Ellen Alderman-Comis, Santa Monica Housing Division, July 10, 2002.

<sup>34</sup> Phone Interview with Gaby Schkud, Coldwell Banker Real Estate Corporation, Santa Monica, August 26, 2002.

<sup>35</sup> Phone Interview with Barry Rosenbaum, Senior Land Use Attorney, Santa Monica City Attorney's Office, June 26, 2002.

<sup>36</sup> Phone Interview with Barry Rosenbaum, Senior Land Use Attorney, Santa Monica City Attorney's Office, July 30, 2002.



Senator Sheila Kuehl (SB985) now mandates that rents of any unsold converted units must become rent-controlled again. Once these units are sold to individual purchasers, their rent levels are no longer controlled<sup>37</sup>.

#### ***k. Effect of Legislation on Number of Rent-Controlled Units***

The Santa Monica Rent Control Board tracks information on the number of TORCA units that have filed for rent level decontrol. Staff of the Rent Control Board indicates that 488 units "have had their rent levels decontrolled as of June 30, 2002. Rent level decontrol on these separately sold condominiums may be because the unit is: 1) owner-occupied; 2) vacant; or 3) occupied by a tenant who moved in on or after January 1, 1996."<sup>38</sup> The Rent Control Board estimates that approximately 30,000 rental units were rent-controlled during the period in which TORCA was in effect. Consequently, the TORCA legislation has decreased Santa Monica's rent-controlled units by 1.6%.

In addition, it is possible to estimate the *eventual* impact of the legislation on the number of units that have their rent levels controlled for the following reasons:

- All TORCA lifetime leases with rent level control will eventually expire.
- All tenancies that began before January 1996 will eventually expire.
- All converted units will eventually be sold to individual purchasers and will no longer be rent-controlled.

As stated previously, TORCA conversions had been approved for 324 properties containing 3,243 total units as of June 30, 2001<sup>39</sup>. At a maximum, the TORCA legislation may decrease the number of rent-controlled units by 10.8%. The actual number will be slightly less due to the fact that the Santa Monica Rent Control Charter Amendment does not apply to a small number of properties (e.g., properties built after 1979 and properties that were approved for conversion but were subsequently purchased by a nonprofit affordable housing provider)<sup>40</sup>.

#### **4. FINDINGS FROM OTHER SOURCES**

The Board of Supervisors requested the Office of the Legislative Analyst to identify other data, analysis or reports prepared by the City of Santa Monica and its departments related to their experience with TORCA. This section concerns findings from the following sources:

- *1993 evaluation report* – additional findings on the effect of TORCA, including affordability of units, selling prices and tenant protections
- *Santa Monica City Attorney memorandums and staff reports* – information on implementation issues that triggered amendments to the TORCA legislation

##### ***a. Affordability of TORCA Units***

The evaluation report analyzed the affordability of pre-conversion maximum allowable rents, initial sale prices of TORCA units and subsequent sale prices of TORCA units. The authors concluded the following:

<sup>37</sup> Staff Report: Proposed Amendments to Various Regulations in Chapters 3, 8, 11 and 13 Necessitated by SB 985 (Kuehl), Plus Miscellaneous Amendments to those Chapters Proposed by Staff. Santa Monica Rent Control Board, December 6, 2001.

<sup>38</sup> Phone interview with Tracy Condon, Public Information Manager, Santa Monica Rent Control Board, July 8, 2002.

<sup>39</sup> Rent Control Board Annual Report: July 2000 through June 2001. Santa Monica Rent Control Board, February 7, 2002.

<sup>40</sup> Phone interview with Tracy Condon, Public Information Manager, Santa Monica Rent Control Board, July 8, 2002.

- There was a “substantial decline in the proportion of units affordable to lower-income households [when comparing pre-conversion rent payments to post-conversion rent and mortgage payments] – from 67.5% under rent control to 10.7% upon [sale to participating tenants].”
- A substantial portion (42%) of the first sale prices of TORCA units (e.g., sales to participating tenants) was affordable to median and moderate-income households.
- Upon subsequent sales (e.g., sales of TORCA units by participating tenants who re-sold their unit), there was a “substantial decrease in the proportion of TORCA condominiums that are affordable to any household earning less than 120 percent of the median County income – [from 48% to] 15%.”

Taken together, these points suggest that there was a substantial loss of affordable units as a result of TORCA. Nonetheless, the authors noted that TORCA increased homeownership opportunities for median and moderate income households, stating that, “TORCA units satisfy a demand for ownership housing within a certain price range that is otherwise not satisfied in the local Santa Monica housing market.” An analysis of data from a telephone survey of purchasing tenants revealed that very low and low-income households were under-represented in TORCA units. A survey of non-purchasing tenants who remained in their units indicated the primary reasons for non-purchase was affordability.

### ***b. Protecting Participating Tenants***

According to the evaluation report, 20% of participants in a phone survey conducted by the City of Santa Monica indicated that they had been pressured to sign intent to purchase and agreement to conversion forms. Of these 31 respondents, five indicated that they were threatened with eviction, four with building demolition and three with stoppage of maintenance. Verbal pressure to sign the forms was also frequently mentioned by respondents. Another 17% of survey participants indicated that they were offered money or other incentives to move out of their units.

Two methodological issues concerning the survey influences the validity of these results. First, 10% of the participants had a prior ownership interest in the building<sup>41</sup>. It is unlikely that these tenants experienced pressure to sign conversion forms and other types of threats or incentives. Second, phone surveys were only conducted with non-purchasing tenants who remained in their units. Tenants who had vacated the building were *not* included in the survey because the authors of the report could not reach a significant number of this group. It is possible that some of the tenants who left did so because of the types of experiences described above. Consequently, both these factors suggest that the percentages estimated (20% and 17%) may have been higher if a representative sample of non-purchasing tenants had been interviewed.

### ***c. Owner Buy-Outs of Tenant Right to Purchase***

According to a report prepared by the Santa Monica City Attorney, some owners of rental properties offered to pay participating tenants to release all rights to purchase a rental unit in the building when obtaining their signatures on agreement to conversion and intent to purchase forms<sup>42</sup>. According to the report, “Once tenants vacate their units under this option, the owner is entitled to sell the unit at the prevailing market rate. Buy-out

<sup>41</sup> This figure is lower than that used in the calculation of the proportion of original tenants who purchased their units because the sample includes tenants who continued to rent as well as those who purchased their units. This figure was obtained by dividing the number of survey participants with prior ownership interest by the number of participants who were present at the time the TORCA application was filed. Due to small sample size, the margin of error for this calculation may be significant.

<sup>42</sup> *Staff Report: Proposed Amendments to Tenant Ownership Rights Charter Amendment, Santa Monica City Charter Section 2000 et seq.* Prepared by City Attorney’s Office for the Mayor and City Council. May 8, 1990.

arrangements of this nature effectively defeat the goal of TORCA since tenants do not purchase their units and the supply of affordable housing accommodations is not maintained.” To address this problem, TORCA was amended to require a declaration by property owners that no such offer was made or agreed to as part of the conversion application package.

#### ***d. Capital Improvement Increases***

According to the minutes of a Santa Monica City Council meeting, a Council member requested City staff to respond to the concern that non-purchasing tenants in TORCA buildings “suffer from capital improvement rent increases where the capital improvements have been in some fashion necessitated by the TORCA process<sup>43</sup>.” To address this issue, TORCA was amended to include a provision that prohibited rent increases due to capital expenditures associated with the conversion process.

#### ***e. Conversion Tax***

As mentioned previously, owners of buildings converted under TORCA must pay a tax on converted units equal to 12 times the maximum allowable rent. A portion of this tax is dedicated to the TORCA loan program. Another portion is dedicated to increasing the supply of housing affordable to low and moderate-income households. These funds resulted in the collection of \$8.45 million as of June 2001. Of this money, approximately \$7 million has been expended on low-income housing developments, \$1 million has been committed to low-income housing developments, and the balance has not yet been committed<sup>44</sup>.

### **CASE STUDY 2: PAST CONDOMINIUM CONVERSION POLICY IN SAN FRANCISCO**

#### **1. BACKGROUND**

Past condominium conversion policy in effect between July 1979 and December 1982 in San Francisco also allowed conversion of existing rental units to condos provided that a specific proportion of tenants indicated an intent to purchase their units much like HOPE. Beginning in 1981, the code limited annual conversions to 1,000 units per year<sup>45</sup>. Before that time, condominium conversions were not limited by City code.

This section of the report describes specific provisions of this code and summarizes research conducted at the time regarding the outcomes of this condo conversion policy. It also provides information regarding the Board's amendment of the Code in December 1982, which limited condo conversions to owner-occupied buildings of six units or less, and limited the number of allowable conversions to 200 per year, a change that formed the basis of the City's current condominium conversion policy.

#### **2. PROVISIONS OF THE SUBDIVISION CODE, 1979-1982**

##### ***a. Participation Requirements***

In order to qualify for conversion of rental property to condos, 40% of tenants at a property had to indicate their intent to purchase<sup>46</sup>. Units where non-purchasing tenants aged 62 or older and/or permanently disabled tenants indicated intent to obtain a renewable lifetime lease could be included in the calculation of the total number of units necessary to satisfy this provision.

<sup>43</sup> City Council Meeting, Abbreviated Meeting Minutes. City of Santa Monica. February 11, 1992.

<sup>44</sup> Staff Report: Background Information Concerning Tenant Participating Conversion Tax Revenues. Santa Monica Housing Division June 21, 2001.

<sup>45</sup> San Francisco Subdivision Code, 1981, Article 9 §1396.

<sup>46</sup> San Francisco Subdivision Code, 1979, Article 9 §1388.

### **b. Tenant Rights and Protections**

All tenants present at the date of filing the conversion application had the right to purchase their units at a price no greater than the price offered to the general public<sup>47</sup>. Following conversion approval, all non-purchasing tenants had the right to enter into or renew a lease agreement to occupy their units for one year and all non-purchasing tenants aged 62 or older and/or permanently disabled had the right to a lifetime lease agreement<sup>48</sup>. Such agreements were subject to rent control limitations in place at the time. Property owners were required to bear the cost of moving expenses (up to a maximum of \$1,000) as well as the cost of relocation assistance requested by tenants.

### **c. Preservation of Low and Moderate Income Housing**

The code required that the City Planning Commission review conversion applications to determine whether any units to be converted were part of the City's low or moderate income housing stock. If the Commission deemed units to be part of this stock, then the code required the following:

*"The price of the unit upon conversion shall not be such as to remove it effectively from said low or moderate income housing stock and shall be no greater than two and one half (2.5) times the highest income level for low and moderate income households... and as adjusted for household size<sup>49</sup>."*

The owner of the property was required to make the unit available to low and moderate-income households at such a price for a twelve-month period. In the event that the unit did not sell during this period, the owner could offer the unit to the general public with no price limitation.

## **3. OUTCOMES OF THE SUBDIVISION CODE, 1979-1982**

Few documents exist that detail the outcomes of the subdivision code in effect from 1979 to 1982. Information from the few existing documents are summarized below.

In December 1981, the Department of City Planning presented findings from a report entitled *Condominium Research: Preliminary Progress Report* to the Planning, Housing and Development Committee of the Board of Supervisors<sup>50</sup>. This report addressed outcomes of condo conversion policy in place from 1979 to 1981. The report was based on an examination of files from the Departments of City Planning and Public Works as well as assessor records of sales for newly constructed condos and condo conversions.

With regard to the percentage of tenants purchasing their units, the Department found, "Only fourteen percent of [tenant intent to purchase] signers have purchased their units," during the time period of the study. The report also found that 61% of units that had received conversion approval between January 1979 and March 1981 remained unsold at the time the report was released. In addition, the report included the following observation:

*"Forty-one percent (41%) of condominium purchasers have claimed [a homeowner's tax exemption]; 59% have not done so. This indicates that the majority of condominiums have been sold to investors, buyers of second homes or homeowners neglecting to file exemption forms."*

<sup>47</sup> San Francisco Subdivision Code, 1979, Article 9 §1387.

<sup>48</sup> San Francisco Subdivision Code, 1979, Article 9 §1391(a) and (c).

<sup>49</sup> San Francisco Subdivision Code, 1979, Article 9 §1385.

<sup>50</sup> *Condominium Research: Preliminary Progress Report*. San Francisco Department of City Planning, December 1981.

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In March 1982, Dean L. Macris, Director of Planning, submitted a letter in response to a request by the Planning, Housing and Development Committee of the Board that included additional findings subsequent to release of the report. The following statement by Mr. Macris refers to both newly constructed condos and condo conversions:

*"Since release of our survey, the final figures from the 1980 U.S. Census were released showing a city-wide rental vacancy rate of 2.68%. The census also revealed that in April of 1980 the City had 6,258 condominium units – 1,863 of these were renter occupied, 548 were vacant and for sale and 506 were vacant for other reasons. This means that, considering all condominium units in the city, nearly half are either renter occupied or vacant"<sup>51</sup>.*

Mr. Macris submitted another letter to the Board of Supervisors in November 1982 raising concerns about the current condo conversion policy, again referring to a large number of unsold condos on the market relative to low rental vacancy rates<sup>52</sup>. The letter also discusses the Department's difficulty enforcing tenant protections, a task that may not be as difficult under HOPE due to prohibitions on conversion of properties with recent Ellis Act and Owner-move-in activity as well as tenant protections prohibiting payoffs. Mr. Macris stated,

*"This Department has had great difficulty in enforcement of those provisions of the present Subdivision Code which attempt to discourage pre-application manipulation of tenants to facilitate a conversion. Some buildings have been cleared of all tenants before an application was filed in order to avoid opposition on the 40% intent to purchase requirement. This negates all tenant protections in the Code and frustrates its intent."*

In November 1982, Raymond Wong, Manager of the Division of Surveys and Mapping within the Department of Public Works, also presented information to the Board regarding departmental data on condo conversions. The notes of his speech indicate, "Of the number of buildings registered for conversion in 1983, about 60% are four units or less and about 80% are ten units or less. In other words, the majority of the would-be converters are small property owners." Mr. Wong also reported that registrations for conversions between 1979 and 1983 ranged from 611 units to 4,000 units. These fluctuations were likely in response to market conditions, proposed and actual changes to local condo conversion law, and enactment of the Rent Ordinance in 1979.

#### 4. AMENDMENT OF THE CODE

In response to such issues and public concern, the Board of Supervisors approved subsequent legislation to place a moratorium on condo conversions in San Francisco. However, Mayor Dianne Feinstein vetoed the legislation because of the potential negative impact on property owners who had already made investments in the condo conversion process. She urged the Board to reconsider legislation limiting the types and number of allowable conversions. She offered the following rationale for approval of this legislation in a November 1982 letter to the Board<sup>53</sup>:

<sup>51</sup> Letter from Dean L. Macris, Director of Planning, to the Board of Supervisors regarding proposed condominium legislation, March 15, 1982.

<sup>52</sup> Letter from Dean L. Macris, Director of Planning, to the Board of Supervisors regarding proposed condominium legislation, November 8, 1982.

<sup>53</sup> Letter from Mayor Dianne Feinstein to the Board of Supervisors regarding Condominium Conversion Prohibition Ordinance and Annual Limitation of Conversions Ordinance, November 29, 1982.

1. "[The recommended legislation] once and for all sets the standard that large complexes built for rental housing and inhabited by tenants will no longer be threatened annually by the possibility of conversion."
2. "It limits condominium conversion to owner-occupied buildings of six units or less and the number of such conversions to 200 per year. It is my understanding that the figure 200 is realistic under present economic conditions in that it covers the actual number of residential units converted in the past two years in this category."

Consequently, the Board of Supervisors approved an ordinance (598-82) in December 1982 amending the subdivision code to 1) limit condo conversions to owner-occupied buildings of six units or less, and 2) limit the number of allowable conversions to 200 per year.

### **POTENTIAL OUTCOMES OF THE HOPE INITIATIVE**

Based on a review of information pertinent to Santa Monica's TORCA legislation as well as documents concerning past San Francisco condominium conversion policy, this section projects potential outcomes of the HOPE ordinance. Characteristics of San Francisco's housing stock are discussed prior to projections related to HOPE.

#### **1. SAN FRANCISCO'S HOUSING STOCK**

##### ***a. Housing Stock and Occupancy***

According to the 2000 U.S. Census, there were approximately 346,527 housing units in San Francisco County. A housing unit is defined by the American Housing Survey as a "house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters". Of the 346,527 units, it is estimated that 329,700 (95 %) were occupied<sup>54</sup>. Of these occupied units, approximately 115,391 (35 %) were owner-occupied and 214,309 (65%) were renter-occupied<sup>55</sup>.

The Planning Department's *Housing Inventory* records 339,579 total housing units as of December 31, 2000 and categorizes these units by building type. Single family homes represented 31% of the housing stock, 2-4 units 24%, 5-9 units 11%, 10-19 units 11% and 20+ units represented 23% of the total housing stock.

According to *Housing Inventory* figures, between 34% and 45% (115,457 to 152,811 units) of San Francisco's housing stock are in buildings that have more than 6 units. Of these 115,457-152,811 units, the number of additional buildings that would be eligible for condo conversion under HOPE would decrease by the number of units that are ineligible or unable to convert such as units already designated as existing condos. Similarly using *Housing Inventory* figures, there are 234,310 total housing units in buildings with 2 or more units inclusive of buildings that may not meet other eligibility requirements for conversion. In a slightly lower estimate of the number of multi-unit buildings, the *Housing Databook* estimates that there are 191,193 units in San Francisco that are classified as "multifamily rental", representing 36,922 total properties<sup>56</sup>.

<sup>54</sup> U.S. Census 2000, Table DP-1. Profile of General Demographic Characteristics: 2000.

<sup>55</sup> Ibid.

<sup>56</sup> Bay Area Economics (BAE), *San Francisco Housing Databook*, 2002; FARES, 2000.



By the end of 2001, the housing stock increased to approximately 341,596—about 2,017 housing units were added to the housing stock including new units built and units added or lost through demolitions and alterations<sup>57</sup>. Net additional units added to the housing stock in 2002 will not be available until early 2003.

### **b. Geographic Distribution of Higher Density Buildings**

The *2000 Housing Inventory* reports that, “the housing stock distribution is slowly moving toward a larger percentage of higher density buildings.” Between 1991-2000, 70% of new construction was of buildings with 10 or more units compared with 18% of construction in single family and two-unit buildings.

The San Francisco Planning Department tracks the geographic distribution of different-sized buildings by planning districts<sup>58</sup>. Data provided in the *2000 Housing Inventory* show that the Downtown, Northeast, Western Addition, South of Market and Marina planning districts comprise a majority of the City’s higher density buildings. The five planning districts, alone, comprise close to 78% of the housing units in buildings with 20+ units and close to 72% of the housing units in buildings with 10+ units. Detailed charts of each planning district’s share of different-sized buildings is included in Appendix G.

### **c. Demographic Characteristics by Planning Districts**

The Board asked the Legislative Analyst to describe the demographic characteristics of tenants of different-sized buildings. While specific demographic information of tenants residing in different-sized buildings is not recorded, cross referencing tract-level data from Census 2000 files with the City’s planning districts can provide a sketch of the likely demographic characteristics of the area residents and perhaps of the tenants. Using the *Housing Databook*’s list of Census tract identification numbers by planning districts, several charts summarizing demographic characteristics, including population and housing data, are included in the appendix (Appendices H, I and J).

## **2. NUMBER OF CONVERSIONS**

The one percent limit specified in HOPE would be calculated by taking one percent of the total housing stock, as defined by the Planning Department’s *Housing Inventory*. If the November initiative passes and is implemented beginning January 1, 2003, the one-percent limit would be calculated using 2002 inventory figures for the first year. The maximum number of condo conversions for the subsequent 24 years would be calculated based on updated housing inventory data.

One method for estimating the maximum number of conversions allowable under HOPE for the first 25 years involves accounting for the annual average net increase in the City’s housing stock. The Planning Department estimated 341,596 total housing units by the end of 2001. Over the past decade, the San Francisco housing stock has increased by an average of approximately 1,000 housing units each year<sup>59</sup>. Holding that increase constant, the maximum number of conversions would be limited to approximately 88,649 units over the next 25 years; unused conversions in any year carry over to subsequent years<sup>60</sup>. Running the same calculation conservatively, if we assume no annual net increase in housing units (meaning the housing stock remains steady at 2001 figures), the maximum number of conversions would be limited at 85,399 units.

<sup>57</sup> San Francisco Planning Department. Teresa Ojeda, Planner.

<sup>58</sup> See <http://www.ci.sf.ca.us/rentboard/housingdatabook/Appendices202.pdf> for planning district map.

<sup>59</sup> San Francisco Planning Department. *2000 Housing Inventory*. Note, from 1991 to 2000, the net annual increase in San Francisco’s housing stock averaged 946 additional units.

<sup>60</sup> See appendix A for calculation worksheet.

To clarify, these calculations illustrate the *maximum* number of conversions under HOPE, holding net annual increases in the housing stock steady. They do not estimate the *actual* number of conversions; the actual number may be fewer depending on the number of buildings actually eligible for conversion and depending on tenant and owner willingness to participate in the condo conversion process.

Santa Monica's experience with TORCA may be helpful in terms of estimating the *actual* number of conversions likely to take place under HOPE. TORCA did not set a limit on the maximum allowable number of condo conversions, however, approximately 0.6% of Santa Monica's housing stock converted to condos on average each year TORCA was in effect. As a conservative estimate, assuming no net annual increase in San Francisco's housing stock, applying the 0.6% conversion rate Santa Monica experienced would yield a maximum of 51,239 total conversions after 25 years<sup>61</sup>. The same calculation, assuming a net annual increase of 1,000 housing units, would yield a maximum of 53,189 conversions.

However, limitations to the direct application of Santa Monica's conversion percentage to estimate the likely number of condo conversions in San Francisco through HOPE should be noted. In particular, differences between Santa Monica and San Francisco's total housing stock, application of rent control, housing market and surrounding housing markets may be factors influential enough to make a direct comparison incompatible.

Another estimate of the demand for condo conversion may be told through statistics from DPW's conversion lottery process. Currently, condo conversions are limited to 200 units per year. In the past three condo conversion lotteries, DPW recorded an average of 351 lottery applications; this represented an average of 1091 housing units<sup>62</sup>. The higher conversion limit set by HOPE would increase the ability to completely accommodate this demand for conversions from units in 3-6 unit buildings (2-unit buildings can currently bypass the lottery system). Additional demand for conversions may be found in the population of 6-plus unit buildings (those additional units that would be allowable under HOPE).

### 3. RENT-CONTROLLED UNITS

The Office of the Legislative Analyst found several estimates of the number of rent-controlled units in the City of San Francisco. Perhaps the most accurate is the Rent Board's estimates of approximately 187,000 units operating under the rent ordinance based on paid billings for the Rent Board fee each year; 17,000 of those units are residential hotel guest rooms<sup>63</sup>. The Planning Department's *Housing Databook* estimates another figure at approximately 145,000 rent-controlled units using earlier 1998 American Housing Survey data. However, the *Housing Databook's* further characterizes the rent-controlled stock by building type.<sup>64</sup>

**Exhibit 5. Rent-controlled Units by Building Type**

Units in Building	Number of Rent-controlled Units	% of Total Rent-controlled Units	Number of Market Rate Units	% of Market Rate Units	Number of Other Rental Units	% of Other Rental Units
1	22,200	15.25%	17,200	74.78%	n/a	n/a
2 to 4	47,100	32.35%	2,000	8.70%	n/a	n/a
5 to 9	22,500	15.45%	--	0%	n/a	n/a
10 to 19	22,100	15.18%	1,000	4.35%	n/a	n/a

<sup>61</sup> See Appendix B for calculation worksheet.

<sup>62</sup> Department of Public Works. John Martin, County Surveyor.

<sup>63</sup> Rent Board. Joe Grubb, Study Moderator for *San Francisco Housing Databook*.

<sup>64</sup> BAE. *San Francisco Housing Databook*, "Rent Control Status of San Francisco Rental Units," 2002.

20 plus	31,700	21.77%	2,900	12.61%	n/a	n/a
<b>Total</b>	<b>145,600</b>	<b>100.00%</b>	<b>23,000</b>	<b>100.00%</b>	<b>36,500</b>	<b>100.00%</b>

Applying these composition percentages to the total number of rent-controlled units estimated by the Rent Board (187,000 units), we can further describe the City's rent-controlled stock. This application yields: 28,518 rent-controlled units in 1-unit buildings, 60,495 units in 2-4 unit buildings, 28,892 units in 5-9 unit buildings, 28,387 units in 10-19 unit buildings and 40,710 units in 20+ unit buildings.

#### **a. Estimated Effect of HOPE on San Francisco's Rent-Controlled Units**

As discussed previously, the application of local and state rent control laws differs according to whether a unit was built after or before 1979. Buildings built after 1979 are not subject to rent control, nor are converted units in such buildings. Among buildings built before 1979, application of rent control differs according to whether converted units have been sold to subsequent purchasers. Converted units that *have not been sold* to a bonafied purchaser for value fall under the provisions of local and state rent control laws. Converted units that *have been sold* to bonafied purchasers for value do not. In addition, units occupied by tenants who moved in on or after January 1, 1996 are subject to state and local rent control laws.

Using projections of the number of conversions under HOPE (85,399) and the proportion of rent-controlled units (88%)<sup>65</sup>, it is possible to provide a rough estimation of the eventual impact of HOPE on the number of rent-controlled units in San Francisco<sup>66</sup>. However, it is important to remember that the effect of the measure would be delayed over many decades due to the application of rent control laws discussed in the previous paragraph. For example, 3,243 units have been approved for conversion under Santa Monica's TORCA legislation<sup>67</sup>. Even though that legislation sunsetted in 1996, only 488 units have had their rent levels decontrolled as of June 30<sup>th</sup>, 2002<sup>68</sup>. Nevertheless, the legislation is likely to result in a net decrease of over 3,000 of Santa Monica's rent-controlled units once all lifetime leases expire, all tenancies that began before January 1996 expire, and converted units are sold to individual purchasers.

The following analysis assumes that rent-controlled units in San Francisco would convert in the same proportion as market-rate units. If a greater proportion of rent-controlled units converted than market-rate units, the decrease in the number of rent-controlled units as a result of HOPE conversions would be higher. If a greater proportion of market-rate units converted, the decrease in the number of rent-controlled units would be lower.

Based on data from the *Housing Databook*, rent-controlled units account for 87.9% of the rental housing stock containing two units or more in San Francisco<sup>69</sup>. The eventual effect of HOPE conversions on the number of rent-controlled units in the City may be estimated by applying this proportion to the various projections of the amount of conversions that would occur under HOPE (provided in a previous section). Using the maximum allowable conversions and assuming no annual net increase in housing units, HOPE could result in the conversion of 60,633 rent-controlled units over the next 25 years<sup>70</sup>. This would represent a 41.6% reduction of San Francisco's rent-controlled units. Assuming no annual net increase in housing units and applying the 0.6%

<sup>65</sup> Ibid.

<sup>66</sup> This analysis concerns the number of units subject to San Francisco's Rent Ordinance. Consequently, the term "rent-controlled units" excludes units where rent levels are controlled under the terms of a lifetime lease.

<sup>67</sup> Rent Control Board Annual Report: July 2000 through June 2001. Santa Monica Rent Control Board, February 7, 2002.

<sup>68</sup> Phone interview with Tracy Condon, Public Information Manager, Santa Monica Rent Control Board, July 8, 2002.

<sup>69</sup> Bay Area Economics (BAE), *San Francisco Housing Databook*, 2002; FARES, 2000. Although the Rent Board's estimate of the proportion of rent-controlled units may be more accurate, the Board does not track information on the number of market-rate units. Therefore, data from the *San Francisco Housing Databook* is used instead.

<sup>70</sup> 85399 \* .71 = 60,633

conversion rate experienced by Santa Monica, HOPE could result in the conversion of 36,380 rent-controlled units over the next 25 years. This would represent 25.0% reduction of the City's rent-controlled units.

#### 4. SALE PRICE AND AFFORDABILITY

##### a. Sale Price

The *Housing Databook* shows that the median sales price for a single-family home in San Francisco was \$525,000; this figure was calculated using all single-family residence sales showing market-rate sales prices from January 2001 through September 2001<sup>71</sup>. Between July 2001 and June 2002, the median sale price of a condo in the City of San Francisco was \$500,000 and the median sale price of multi-unit buildings was approximately \$830,000, representing 766 properties<sup>72</sup>. For buildings with 2-4 units, the per-unit (not per building) price was close to \$365,000 and for buildings with greater than 5 units, the per-unit price was approximately \$163,000. Overall, the data shows that the per-unit price in multi-unit buildings was a little more than \$285,000<sup>73</sup>.

In assessing the affordability of home ownership, several methods have been used to estimate the likely sale price of units that would be converted to condos under HOPE. The two more popular proxies include the median sale price of recently sold condos and the price of multi-unit buildings divided by the total number of units in a building. However, the real sale price will likely lie between those two proxies.

The median sale price of condos in San Francisco can be considered a "ceiling" for estimating the likely sale price of condos that would be converted under HOPE. As mentioned previously, the median sale price of condos in the past year was \$500,000. This figure is the median sale price of all condos sold including new condos, and condos converted under the existing subdivision code. Price differentials between new and converted condos may not be significant; Mr. David Parry, President of the San Francisco Association of Realtors, indicates that new condos and converted condos may not have significant or systematic differences in pricing because converted units may have architectural characteristics that are desirable<sup>74</sup>. Conversely, new units may be built with more modern features or more "updated" amenities.

Mr. Parry believes that the likely actual cost of condos converted under HOPE would be less than the median sale price of condos. Pressures that act to drive down the price include the savings owners would incur from selling directly to existing tenants. Owners would not have to pay commissions to market or "fix-up" units to attract new buyers. Owners would also continue to receive rental payments up to the close of escrow or change of ownership, preventing any loss of rental income. In addition, since tenants are the only eligible purchasers, they may be positioned more favorably when negotiating a purchase price with owners.

However, the bargaining position of tenants will depend on several factors. Currently, HOPE sets requirements for tenant participation in the form of intent to purchase forms. If the application for conversion meets these

<sup>71</sup> Bay Area Economics (BAE). *San Francisco Housing Databook*, "Recent Condo & Single-Family Home Sales," 2002.

<sup>72</sup> Ibid. Note price of multi-unit buildings and average number of units provided by San Francisco Association of Realtors. Properties include those listed in the multiple listings system for the City of San Francisco. Data does not include units or properties directly sold between owners and buyers; nor does it include properties listed where the sale was allowed to expire or the record was withdrawn because sales data was not entered. One property selling for \$1,000 was omitted. The estimated median price may be slightly higher because properties not listed may have been negotiated at better prices. For example, sales that were directly made between owner and buyer may be lower if both parties do not have to pay a sales commission to a real estate agent, etc.

<sup>73</sup> Ibid.

<sup>74</sup> Interview. David Parry, President, San Francisco Association of Realtors. July 19, 2002.



requirements, as well as other requirements, owners can begin the process for condo conversion. The conversion process is not complete unless 25% of eligible purchasers close escrow on the purchase of their units. Eligible purchasers are defined as any occupant of the building for at least two years; an owner-occupant would count as an eligible purchaser. In cases where the owner-occupant alone meets the purchase requirements necessary to complete the conversion, the potential tenant purchaser may experience reduced "bargaining position". In situations where the owner-occupant does not constitute the 25% purchase requirement or in situations where the owner does not occupy the building, the owner may have an incentive to negotiate a below-market price for the condos. Yet, this too will depend on the tenants residing in the building. Tenants choosing to negotiate together for purchase prices may have more leverage in negotiating a lower purchase price. If the 25% purchase requirement is met by tenants willing and able to pay a high purchase price, then sales for those units and for subsequent units may be negotiated at higher prices.

On the lower end, some have used the per-unit price in multi-unit buildings (\$285,000) to estimate the likely sale price of converted units. Sources, however, indicate that the likely sale price of units converted into condos would be higher than this "floor" price. According to Mr. Parry, the price per square foot of condos is generally twice as much as that of a comparable undivided, multi-unit building for larger buildings with 5 or more units. In 2-unit buildings, the price differential between selling the building undivided and selling the entire unit as a condo is approximately 10%; for 3-4 unit buildings the differential is approximately 35%-40%. Depending on the situation and bargaining positions of the owner and purchaser, the "markup" may be shared by the owner and tenants, or may be weighted towards one or the other.

Upward pressures on the "floor" price consist primarily of the costs associated with the condo conversion process<sup>75</sup>. Owners pursuing a condo conversion must pay various direct fees including those for surveys, mapping, legal services and other application fees. Owners are also responsible for repairs or other alterations to bring buildings up to health and safety codes. In addition, owners may incur other indirect costs or time costs of pursuing a condo conversion. The condo conversion process currently takes more than one year to complete, not yet including time spent qualifying for a conversion through the participation in a lottery.

### **b. Affordability**

The Mayor's Office of Housing (MOH) states that, "first-time homebuyers find it extremely difficult to buy a home in San Francisco"<sup>76</sup>. The median renter household income in the City of San Francisco was in the range of \$43,000-\$60,000 in 1998; the median household income was \$43,000 for households in rent-controlled units and \$60,000 for households in market-rate units<sup>77</sup>. HUD estimates that the median household income for a four-person household in the San Francisco primary metropolitan statistical area (PMSA) was \$86,100 in 2002<sup>78</sup>.

Assuming an interest rate of 6.75% and a downpayment of 10%, a four-person household earning the PMSA median income would be able to afford a \$300,000 home<sup>79</sup>. Between July 2001 and June 2000, sales data of

<sup>75</sup> Interview. David Parry, President, San Francisco Association of Realtors. July 19, 2002.

<sup>76</sup> Mayor's Office of Housing (MOH), "San Francisco Affordable Housing Fact Sheet," [www.ci.sf.us/moh/housing.htm](http://www.ci.sf.us/moh/housing.htm).

<sup>77</sup> BAE. *San Francisco Housing Databook*, "Household Income by Rent Control Status," 2002.

<sup>78</sup> MOH, "2002 Income Limits for Housing Programs." Note that San Francisco is defined as San Francisco PMSA including San Francisco, San Mateo and Marin Counties.

<sup>79</sup> MOH. "2002 Maximum Purchase Price Limit Calculations," [www.ci.sf.ca.us/moh/moh\\_6\\_2.htm](http://www.ci.sf.ca.us/moh/moh_6_2.htm). Note, estimation at 6.75% provided by Joe Latorre, Deputy Director, MOH.

2,115 condo sales showed that only 611 sales (29%) sold for below \$399,999<sup>80</sup>. A substantial majority of condos for sale in San Francisco were priced out of the reach of median income households.

Turning back to our high and low estimates, a household would have to earn over \$125,000 to afford the "ceiling" or high estimate (\$500,000), as detailed below. Similarly a household would have to earn over \$75,000 to afford the "floor" or low estimate (\$285,000). In San Francisco County, approximately 121,376 (36.7%) of households had an income of \$75,000 or more in 1999; approximately 81,407 (24.6%) households had a household income of \$100,000 or more<sup>81</sup>.

Generally, homebuyers in San Francisco pay a downpayment of approximately 20% of the purchase price; some first time homebuyers have been able to put as little down as 3% or 5% of the purchase price, while others have increased their downpayment in order to lower monthly mortgage payments<sup>82</sup>. Using the low and high (\$285,000 and \$500,000) purchase price estimates, this would require between \$57,000 to \$100,000 for downpayment. The remaining \$228,000 and \$400,000 would be financed typically through a 30-year mortgage. Assuming the current interest rate of approximately 6%, a household can expect to pay \$1366.97 to \$2398.20 in monthly mortgage payments alone<sup>83</sup>. Monthly condo association fees of \$200, property taxes of \$237.50 or \$416.66, and monthly insurance costs of \$66.50 or \$116.66 would require a total of \$1871 to \$3131 in homeownership expenses<sup>84</sup>. This does not include utilities, other insurance and costs or benefits, such as tax exemptions associated with home ownership.

Since, "federal affordability guidelines consider housing to be 'affordable' if households spend no more than 30% of their gross monthly income on all housing costs, including utilities," purchasers would have to earn a monthly household income over \$6,200 or \$10,400 to consider the housing units "affordable"<sup>85</sup>. These monthly income figures translate to approximately \$75,000 and \$125,000 annually.

While illustrative, the analysis above does not consider the number of households that can save and afford the average downpayment and up-front closing costs associated with the purchase of a new unit. However, there are financial assistance programs such as the Mortgage Credit Certificate Program (MCC) and the Downpayment Loan Assistance Program (DALP) available through the Mayor's Office of Housing and other sources. Participation in these programs is restricted through income and sale price requirements and depends on available funding (see Appendix M for detailed program descriptions). The analysis uses median purchase

<sup>80</sup> Note price of multi-unit buildings and average number of units provided by San Francisco Association of Realtors. Properties include those listed in the multiple listings system for the City of San Francisco. Data does not include units or properties directly sold between owners and buyers; nor does it include properties listed where the sale was allowed to expire or the record was withdrawn because sales data was not entered. The estimated median price may be slightly higher because properties not listed may have been negotiated at better prices. For example, sales that were directly made between owner and buyer may be lower if both parties do not have to pay a sales commission to a real estate agent, etc.

<sup>81</sup> US Census, 2000. "Table Dp-3. Profile of Selected Economic Characteristics: 2000 for San Francisco County".

<sup>82</sup> Interview. David Parry, President, San Francisco Realtors. July 19, 2002.

<sup>83</sup> Interest rate information estimated by David Parry, President, San Francisco Realtors. Note, formula used to calculate monthly mortgage payments is  $p = [(r \cdot m) / (1 - ((1 + (r/n))^(-nt)))] / n$ , where  $p$  = monthly payment;  $m$  = principle or loan amount;  $r$  = interest rate;  $n$  = number of payments per year;  $t$  = number of years mortgages (ie. 30 year mortgage) from [www.sosmath.com](http://www.sosmath.com).

<sup>84</sup> Monthly property tax and insurance estimates provided by [www.classicsfproperties.com](http://www.classicsfproperties.com), "Mortgage Calculator". Condo association fee estimate from American Housing Survey for the San Francisco Metropolitan Area, 1998 "Financial Characteristics". Note, survey estimates the median condominium and cooperative fee to be \$200+ in 1998.

<sup>85</sup> MOH. "San Francisco Affordable Housing Fact Sheet," [www.ci.sf.us/moh/housing.htm](http://www.ci.sf.us/moh/housing.htm) for affordability quotation. Note, monthly income is calculated by taking monthly costs of purchasing a unit and dividing by 0.30 (or 30%); it does not include other monthly homeownership expenses such as insurance, utilities, etc.



price estimates; certainly condos will sell below and above the median. The *Housing Databook* shows that actual sale prices ranged from less than \$200,000 to \$800,000 and above:

### Exhibit 6. Sale Prices of Condominiums, by Price Categories

Sale Price	Condominiums	Percentage of Total
Less than \$200,000	11	1.7 %
\$200,000-\$299,999	64	9.7 %
\$300,000-\$399,999	123	18.6 %
\$400,000-\$499,999	135	20.4 %
\$500,000-\$599,999	107	16.1 %
\$600,000-\$699,999	82	12.4 %
\$700,000-\$799,999	44	6.6 %
\$800,000 and Above	97	14.6 %
<b>Total</b>	<b>663</b>	
<b>Median Sale Price</b>	<b>\$499,000</b>	

Source: Bay Area Economics. San Francisco Housing Databook, 2002

Finally, the analysis considers immediate affordability as compared to long-term affordability. The key difference between renting and purchasing is that homebuyers are able to build equity over time. MOH finds that “housing costs for homeowners vary dramatically depending mainly on how long they have owned their home. Longtime homeowners may have mortgage payments and other housing costs that are much lower than current rents for a comparable unit.”

Between 1989 and 1999, the median rent for a 2-bedroom unit increased from \$928 to \$1940, an increase of 109%<sup>86</sup>. In 2002, the fair market values of rent in the San Francisco PMSA were \$1,248 for a studio, \$1,616 for a one bedroom, \$2,043 for a two bedroom, \$2,808 for a three bedroom and \$2,965 for a four bedroom rental unit<sup>87</sup>.

Many factors drive the decision on whether to rent or buy. These include, but are not limited to, a tenant’s current rent level, annual allowable rent increases under the rent ordinance, purchase price of a home, appreciation rates of homes, tax savings from home ownership and the number of years a homebuyer expects to stay in the home. The lower the rental rate compared to the monthly costs of homeownership, the more time is needed to make homeownership a more affordable option<sup>88</sup>. As appreciation of home values in San Francisco continue to rise, homeownership also becomes more attractive over the long run as homebuyers are able to experience higher returns in equity.

## 5. EFFECT ON CITY AGENCIES

The Board of Supervisors requested the Office of the Legislative Analyst to examine the potential impact of the legislation on City agencies that would be charged with administering portions of the new legislation. This section of the report describes feedback from relevant agencies on the potential effect of this measure.

In a letter to Acting Director of Elections John Arntz, the Controller estimated that, “should the proposed initiative [HOPE, Proposition R] be approved by the voters, in my opinion, property transfer tax and general property tax revenues in the City could increase by approximately \$3 million in the first year, growing to \$14

<sup>86</sup> MOH. “San Francisco Affordable Housing Fact Sheet,” website: [www.ci.sf.ca.us/moh/housing.htm](http://www.ci.sf.ca.us/moh/housing.htm).

<sup>87</sup> MOH. “2002 Rent Limits for Housing Programs,” [www.ci.sf.ca.us/moh/moh\\_6\\_5.htm](http://www.ci.sf.ca.us/moh/moh_6_5.htm).

<sup>88</sup> Ginnie Mae. “Buy vs. Rent Calculator,” [www.ginniemae.gov](http://www.ginniemae.gov). See Appendix L for comparison scenarios set at a purchase price of \$499,000 with rents starting at \$1248, \$1616 and \$2043 with annual allowable increases of 2.7% (the annual allowable increase set by the Rent Board for rent-controlled units effective March 1, 2002 to February 28, 2003).

million by year seven and continuing to grow thereafter.”<sup>89</sup> The City may also set user fees to cover the costs of administering this program.

### ***Department of Public Works (DPW)***

DPW performs several functions pursuant to the current conversion code, including conversion lottery administration, application review, tenant notice of application filing and rights, holding of public hearings, approval/disapproval of conversion, and recording of tentative and final maps. Based on an analysis of their current workload and staffing levels as well as department projections of potential HOPE applicants, staff of the Street Use and Mapping section estimate that DPW would need between 15 and 29 additional staff members to process HOPE conversions<sup>90</sup>. DPW would need a dispensation from the City’s current hiring freeze to accomplish this. Funding for office space, equipment and job training would be necessary to accommodate this increase in staff. Because the HOPE initiative mandates that DPW hold a lottery within 90 days of the date the legislation is effected, DPW will require initial funding (separate from condo conversion fees assessed on applicants) to perform its functions.

HOPE would require DPW to hold public hearings on a conversion application within 15 days of a tenant’s request. Under the current code, there is no time limit. Staff of DPW noted that, because they rely on the subdivider to provide them with a list of tenant names, addresses, mailing envelopes and stamps, their ability to perform this function within the specified time period is impeded. Staff also observed that HOPE does not require many documents required under the current code. Some of these documents contain information that DPW uses to verify tenant intent to purchase and other requirements of the code (e.g., description of existing uses of the property, existing tenancies and the conditions and terms thereof, rental history, tenant contacts, sales and leasing prices). In addition, these documents provide protections for property owners and tenants in the event of a dispute concerning the subdivision process.

### ***Planning Department***

Staff of the Planning Department estimates that HOPE would triple the number of conversion applications they process and review. In addition, staff believes that the review process for HOPE applications may be more extensive than that of current applications, due to the likely increase in the number of units involved at each property. Consequently, funding for office space, equipment and job training would be necessary to accommodate this increase in staff.

### ***Department of Building Inspection (DBI)***

DBI is currently responsible for inspecting properties that undergo conversion in order to identify violations of state and local building code requirements. They are also charged with conducting follow-up inspections to ensure that violations are corrected. Although the HOPE legislation does not explicitly require a building inspector’s report listing code violations, staff of DBI noted that issuance of a Certificate of Final Completion and Occupancy (necessary to record final map) requires that an inspection and any necessary follow-up has been performed<sup>91</sup>. Staff of DBI commented, “If buildings inspections are not required prior to recordation of the final map, there should not be a significant impact on DBI staffing levels. However, if inspections are required, then impacts on staffing levels will be significant.”

<sup>89</sup> Letter from Controller Ed Harrington to John Arntz, Acting Director of Elections, August 15, 2002.

<sup>90</sup> Interview with Todd Huntington, Director of Street Use and Mapping, and John Martin, County Surveyor, Department of Public Works.

<sup>91</sup> Memoranda submitted by the DBI staff to Eugene Tom, Department of Elections, July 26, 2002.

In addition, staff noted, "The [current condo conversion procedures were adopted when DBI was still a part of DPW and all fees were collected by DPW. The new Article 11 legislation also authorizes DPW to collect administrative fees, but does not mention how fees would be distributed to DBI or Planning for any expenses they may incur for inspections, plan reviews, record searches, etc." Generally stated, DBI would require appropriate staff and funding to accommodate an increased number of conversion applications.

### **Mayor's Office of Housing (MOH)**

MOH does not currently play a role in overseeing the current conversion process. If HOPE is enacted, the legislation designates MOH as the agency which will 1) determine the anti-speculation fee amount due to the City if a converted unit is re-sold within a two year period, and 2) administer and expend fees collected as a result of this determination. With regard to these duties, MOH Deputy Director Joe LaTorre, observed<sup>92</sup>,

*"It is not possible to estimate the amount of additional responsibilities created by the measure, since they depend on the number of sales within the first two years of conversion. The measure does not specify any process for monitoring whether sales have taken place. If the intent is that [MOH] monitor ownership during the first two years, this role will create additional administrative responsibilities for MOH. The level of such responsibilities will depend on the volume of conversions in each year."*

## **6. SPECULATION**

Speculation typically refers to taking large risks in the hopes of making quick, large gains. As described previously, HOPE includes two provisions to discourage speculation. First, HOPE imposes a fee on condo owners who resell their units during a two-year period following conversion. The amount of the fee is calculated as a percentage of net profit – 20% if the unit is sold within 12 months of conversion, and 10% if the unit is sold between 13 and 24 months. Owners who demonstrate that they did not or could not reasonably foresee that they might be required to resell their unit are exempted from payment. This limits tenants' potential to gain windfall profits for two years after the conversion, that arise due to their unique right to purchase their units. Second, HOPE mandates that escrow on the sale of a unit to the general public may not close until escrow has closed on at least 25% of the units to eligible purchasers. In essence, this provision discourages landlords from extracting intent to purchase forms from tenants whom they believe will not be able to effectuate a purchase upon conversion, in the hopes of selling these units to outside purchasers at a higher price.

The Board of Supervisors asked the Office of the Legislative Analyst to describe possible scenarios for speculation beyond those discouraged under HOPE. Based upon a review of Santa Monica's experience with TORCA, additional scenarios are possible. First, some owners of rental properties in Santa Monica offered to pay participating tenants to release all rights to purchase a converted unit when obtaining their signatures on agreement to conversion and intent to purchase forms. This allowed property owners to sell the converted units at market rate prices minus the amount of the tenant buy-out. Second, some owners of rental properties in Santa Monica that converted under TORCA attempted to pass through costs of capital improvements associated with the conversion to tenants. Tenants unable to bear the costs of such passthroughs could effectively be forced out of their units. This would allow the property owner to sell the converted unit at the market-rate price. Third, there was at least one instance in Santa Monica where a tenant offered false proof of tenancy in order to qualify as a purchasing tenant under TORCA<sup>93</sup>. In such a scenario, a property owner could knowingly allow an

<sup>92</sup> Letter from Joe LaTorre, Deputy Director of MOH, to Eugene Tom, Department of Elections, August 1, 2002.

<sup>93</sup> Staff Report: Complaint Concerning Tenant Participating Conversion #126 and Vesting Tentative Tract Map #50120 at 2072 11th Street. Santa Monica Department of Planning, February 19, 1991.

individual to misrepresent his or her length of tenancy in order to sell the converted unit at market rate price to that individual.

In addition, speculation could occur on the part of tenants of units participating in the HOPE process. Although no evidence indicates that this happened in Santa Monica, tenants may have incentive to sign intent to purchase forms even if they are unwilling or unable to purchase their units. This is because lifetime leases, which benefit tenants by providing protections from Owner-move-in evictions not provided for under the Rent Ordinance, arise to all tenants including those who signed intent to purchase forms. It is possible that some tenants will sign these forms even though they will not purchase their units in the hopes of garnering these additional protections. Furthermore, if a large proportion of tenants did this, it could prevent the property owner from being able to sell any units to the general public, since such sales are prohibited until escrow has closed on at least 25% of the units to eligible purchasers. Alternatively, a tenant could purchase his or her unit and rent the unit out at market rate since the unit would no longer be subject to the Rent Ordinance. In this scenario, the tenant would reap the benefits of owning a market-rate rental unit.

## 7. POTENTIAL LEGAL CHALLENGES

The Board asked the Legislative Analyst to determine, "the possibility that any provisions of this measure will be struck down in court, and if certain provisions are struck down what would be the overall effect on the remainder of the measure."

In partial answer, the anti-severability clause of the HOPE initiative (HOPE-I) provides that if the control of rent levels under the lifetime lease section (Section 1399.5(b)) is found invalid, the entire legislation would be struck down. There is no anti-severability clause for any other provision of HOPE-I. Thus, if a court found any other provision of the legislation to be invalid, the remaining provisions of HOPE-I could stand. The HOPE legislation (HOPE-L) before the Transportation and Commerce Committee does not contain an anti-severability clause, but provides that the general severability clause of the San Francisco Subdivision Code applies. Thus, if any portion of HOPE-L is found invalid, it is likely that the remainder of the legislation would stand.

Assessing the possibility that any provisions of the measure would be struck down in court or challenged is outside the scope of this report. Questions by the Board of Supervisors pertaining to the legality of the HOPE-L legislation before the Board may be referred to the City Attorney.

## 8. INFORMATION AND PROCESSES TO ASSESS HOPE

The Board of Supervisors asked the Office of the Legislative Analyst what information and processes would be needed to assess the impacts of HOPE. The City would need to collect information related to outcomes of interest to San Franciscans. Based on questions included in the current request, such outcomes may include: 1) proportion of tenants who purchase their units; 2) efficacy of tenant protections; 3) affordability of converted units; 4) effect on affordable housing stock; 5) effect on number of rent-controlled units; and 6) characteristics of participating buildings (e.g., number of units, neighborhood, demographic characteristics of tenants). Based on a preliminary analysis, the City would need to track information such as the following:

- *Pre-conversion tenants* – names; demographic characteristics including income; pre- and post- conversion rental rates; whether they have an ownership interest in the buildings; whether they signed intent to purchase forms and purchase price stated on form; whether they exercised right to lifetime lease; contact information for all tenants, including those who vacate the building subsequent to conversion; qualitative / quantitative feedback on conversion process from pre-conversion tenants



- *Converted units (information from first post-conversion sale and all subsequent sales)* – number of conversion applications received; purchaser names; date of purchase; actual purchase price; down payment and closing costs; gross monthly housing costs including mortgage payments and condo association fees; pre- and post-conversion rent control status; amount and types of financing received by pre-conversion tenants; previous renter/owner status of subsequent purchasers; previous residence of subsequent purchasers and renters; number of bedrooms; neighborhood
- *Housing market conditions* – condo purchase prices; prices of rental units in multi-unit buildings; converted condo purchase prices

City agencies involved in the conversion process as well as the Assessor's Office would likely be the agencies involved in data collection. If such an effort is undertaken, Santa Monica's 1993 evaluation report and the Planning Department's 1981 study of condo conversions in San Francisco should inform this process. Additional funds may be needed to carry out data collection, entry and analysis. In addition, a sufficient amount of time should be allocated for the study period in order to account for the lengthy process of conversion and sale of units.

### **CONCLUSION**

In closing, HOPE would significantly change San Francisco's current condo conversion policy as well as the administration of that policy by City agencies. Based on Santa Monica's experience with TORCA and past condominium conversion policy in San Francisco, HOPE would have a number of impacts on the City's housing stock and the availability of homeownership opportunities for residents. The goals of HOPE are to increase homeownership opportunities for San Francisco tenants while protecting tenants who do not wish to purchase their units. If enacted, the Board should monitor the implementation and outcomes of this measure to ensure that it is achieving its goals and in order to capture other important consequences. To this end, the Board should examine ways to monitor the impacts of this legislation.

## APPENDIX A: Maximum Conversion Estimates

HOPE sets the *maximum* annual allowable condo conversions at 1% of the total housing stock as reported in San Francisco Planning Department's *Housing Inventory*. The 2000 Housing Inventory reported 339,579 total housing units as of December 31, 2000. According to information provided by Teresa Ojeda, the net increase in San Francisco's housing stock in 2001 was 2,017, bringing the housing stock to a total of 341,596 units as of December 31, 2001. The net increase in 2002 will not be available until early 2003.

Assuming no net annual increase in the housing stock as a conservative estimate, the maximum allowable conversions under HOPE would be 85,399 units with an average of 3,416 units per year.

Conservative Estimate (assumes no net annual additions to housing stock):

Base Year	Base Year Housing Units	1% of Base Year	Maximum Allowed (25 Years x 3,416 units)
2001, 2002, ...	341,596	3,416	85,399

Factoring in net annual increases in the housing stock at a steady rate for 25 years, the maximum allowable conversions under HOPE would be 88,649 with an average of 3,546 conversions per year. The average net annual increase in the housing stock from 1991-2000 was 946 units, or approximately 1,000 units.

Annual Net Add'l 1,000

Base Year	Base Year Housing Units (1,000 annual increase)	1% of Base Year	Maximum Allowable (based on previous year's 1% calculation)	Year Program in Effect
2001	341,596			
2002	342,596	3,426		
2003	343,596	3,436	3,426	1
2004	344,596	3,446	3,436	2
2005	345,596	3,456	3,446	3
2006	346,596	3,466	3,456	4
2007	347,596	3,476	3,466	5
2008	348,596	3,486	3,476	6
2009	349,596	3,496	3,486	7
2010	350,596	3,506	3,496	8
2011	351,596	3,516	3,506	9
2012	352,596	3,526	3,516	10
2013	353,596	3,536	3,526	11
2014	354,596	3,546	3,536	12
2015	355,596	3,556	3,546	13
2016	356,596	3,566	3,556	14
2017	357,596	3,576	3,566	15
2018	358,596	3,586	3,576	16
2019	359,596	3,596	3,586	17
2020	360,596	3,606	3,596	18
2021	361,596	3,616	3,606	19
2022	362,596	3,626	3,616	20
2023	363,596	3,636	3,626	21
2024	364,596	3,646	3,636	22
2025	365,596	3,656	3,646	23
2026	366,596	3,666	3,656	24
2027	367,596	3,676	3,666	25
Max Condo Conversions (25 yrs sum):			88,649	
Avg. Annual Allowable Conversions (25 yrs):			3,546	



## APPENDIX B: Conversion Estimates Based on Santa Monica's TORCA

HOPE sets the *maximum* annual allowable condo conversions at 1% of the total housing stock as reported in San Francisco Planning Department's *Housing Inventory*. The 2000 Housing Inventory reported 339,579 total housing units as of December 31, 2000. According to information provided by Teresa Ojeda, the net increase in San Francisco's housing stock in 2001 was 2,017, bringing the housing stock to a total of 341,596 units as of December 31, 2001. The net increase in 2002 will not be available until early 2003.

One way to estimate the *actual*, not the *maximum*, number of conversions through HOPE is to apply the conversion rate Santa Monica experienced through its TORCA legislation (0.6%). Assuming no net annual increase in the housing stock as a conservative estimate, the estimated *actual* number of conversions is 51,239 units with an average of 2,050 units per year.

**Conservative Estimate (assumes no net annual additions to housing stock):**

Base Year	Base Year Housing Units	0.6% of Base Year	Maximum Allowed (25 Years x 3,416 units)
2001, 2002...	341,596	2,050	51,239

Factoring in net annual increases in the housing stock at a steady rate for 25 years, the estimated *actual* number of conversions is approximately 53,189 with an average of 2,128 conversions per year. The average net annual increase in the housing stock from 1991-2000 was 946 units, or approximately 1,000 units.

Annual Net Add'l Units:		1,000			
Base Year	Base Year Housing Units (1,000 annual increase)	0.6% of Base Year	Maximum Allowable (based on previous year's 1% calculation)	Year Program in Effect	
2001	341,596				
2002	342,596	2,056			
2003	343,596	2,062	2,056		1
2004	344,596	2,068	2,062		2
2005	345,596	2,074	2,068		3
2006	346,596	2,080	2,074		4
2007	347,596	2,086	2,080		5
2008	348,596	2,092	2,086		6
2009	349,596	2,098	2,092		7
2010	350,596	2,104	2,098		8
2011	351,596	2,110	2,104		9
2012	352,596	2,116	2,110		10
2013	353,596	2,122	2,116		11
2014	354,596	2,128	2,122		12
2015	355,596	2,134	2,128		13
2016	356,596	2,140	2,134		14
2017	357,596	2,146	2,140		15
2018	358,596	2,152	2,146		16
2019	359,596	2,158	2,152		17
2020	360,596	2,164	2,158		18
2021	361,596	2,170	2,164		19
2022	362,596	2,176	2,170		20
2023	363,596	2,182	2,176		21
2024	364,596	2,188	2,182		22
2025	365,596	2,194	2,188		23
2026	366,596	2,200	2,194		24
2027	367,596	2,206	2,200		25
Max Condo Conversions (25 yrs sum):			53,189		
Avg. Annual Allowable Conversions (25 yrs):			2,128		

## APPENDIX C: Informational Requirements for Conversion

### Exhibit 1. Comparison of Informational Requirements Under the Current Subdivision Code and the Subdivision Code Proposed under HOPE

Topic	Current Subdivision Code	Proposed Subdivision Code (HOPE)
Building History	Building history, including date of construction; major uses and repairs since construction; current ownership of buildings; and proposed ownership upon conversion	Same
Residential Record Report	Report of residential record obtained from the Bureau of Building Inspection	Same
Building Inspector's Report	Building inspector's report listing any current, incipient or potential Building Code violations	No corresponding provision
Planned Repairs / Improvements	List of planned repairs and improvements to be made prior to conversion and the project cost	No corresponding provision
Management Documents	Copies of management documents submitted to the CA State Department of Real Estate	No corresponding provision
Tentative Map and Documents	Tentative Map, prepared by a registered civil engineer or a registered land surveyor, and required documents including a written statement describing the existing uses of the property, including whether or not there are existing tenancies and the conditions and terms thereof	Same, except written statement describing the existing uses of the property, including whether or not there are existing tenancies and the conditions and terms thereof not required
Geologic Report	Geologic Conditions Statement or a Soil Report in addition to requirements set forth in State law	Compliance required only as set forth in State law
Conformity with Code	For Final Map approval, in addition to requirements of State law, all applicable provisions of City codes must be met or violations corrected or, funds be adequately escrowed or bonded to assure completion of corrective work prior to the closing of escrow of any unit in the project	Compliance required only as set forth in State law
Rental History	Rental history for each unit, including monthly rental rate for last 5 years, monthly vacancy for last 3 years, and names of the current tenant(s) for each unit	No corresponding provision
Tenant Contacts	Tenant contacts, including all meetings held with tenants; all information provided about the project and the tenant options; list of all tenants who have expressed a desire to buy; proposed methods of dealing with tenants who do not buy; any proposed program for relocation services	No corresponding provision
Sales/Leasing Prices	List of the proposed sales prices for each unit (which can only be increased subject to certain conditions) including whether the units will be sold or leased; estimated condo association dues; rental rates if leasing is proposed; and statement of the proposed sales program	Sales prices for tenants who signed intent to purchase forms
Intent to Purchase	Required number of intent to purchase forms	Same

As detailed in the previous chart, not all of the documents that are required under the current subdivision code would be required under HOPE. The following list details the function of the documents no longer required<sup>1</sup>:

- *Building Inspector's report* – This report aids the Department of Building Inspection in enforcing code violations in order to maintain the health and safety of residents and the quality of the housing stock.
- *List of planned repairs and improvements* – This information aids the City in ensuring that code violations will be corrected.
- *Copies of Management documents* – To ensure compliance with state law, these documents are required by the California Department of Real Estate<sup>2</sup>:
  - 1) Proposed Articles of Incorporation or Association – These documents give existence to a corporation or an agreement between natural persons which establishes an unincorporated association. They serve to establish the homeowner's association as a legal entity.
  - 2) Proposed Bylaws – The bylaws set forth the basic method of running the homeowners' association. They serve to ensure that the homeowner's association acquires proper control over its assets and that it can function in a democratic and effective manner for the good of all owners.
  - 3) Covenants, Conditions and Restrictions Presently Recorded – This is a compilation of all qualifications and imitations on the use of the property, binding the present owner, the subdivider and future owners. It is required because it protects the potential purchaser against potential losses.
- *Existing uses of the property, including existing tenancies and the conditions and terms thereof* – This information aids the City in ensuring that tenant participation requirements have been met.
- *Geologic Conditions Statement or a Soil Report* – These documents may be substituted for the required Soil and Geologic Reconnaissance Report when neither new buildings nor major additions to existing facilities are indicated in the Tentative Map. This allows property owners to satisfy the requirements using information from U.S. Geologic Maps rather than hiring a soil engineer or registered engineering geologist to collect information on potentially hazardous soil and geologic conditions that could impact construction<sup>3</sup>.
- *All applicable provisions of City's Codes 1) must be met or violations corrected or, 2) funds be adequately escrowed or bonded to assure completion of corrective work prior to the closing of escrow of any unit in the project* – **\*Ask City Attorney's office purpose of these documents. John Martin, Street Use and Mapping, indicates that there are no City codes beyond those required by state law, so he's not sure what the purpose of this is.**
- *Rental History* – This information assists the Planning Department in monitoring changes in the housing stock, particularly as they relate to the preservation of low and moderate-income housing.
- *Tenant Contacts* – This list provides additional information to the City in the event that a tenant feels his or her rights have been violated in the subdivision process.
- *Sales/leasing prices* – This information aids the City in ensuring that requirements of the current subdivision code pursuant to sale prices of units have been met.

<sup>1</sup> Phone interview with John Martin, County Surveyor, Department of Public Works, July 15, 2002.

<sup>2</sup> *Subdivision Public Report Application Guide, 9<sup>th</sup> Edition*. California Department of Real Estate. Revised October, 1997.

<sup>3</sup> Phone interview with Willy Yau, Plan Reviewer, Department of Building Inspection, July 16, 2002.

## APPENDIX D: Procedural Requirements and Deadlines for Conversion

**Exhibit 2. Comparison of Procedural Requirements and Deadlines  
Under the Current Subdivision Code and the Subdivision Code Proposed under HOPE**

Topic	Current Subdivision Code	Proposed Subdivision Code (HOPE)
<b>Tenant Notice</b>	<p>Within 5 days of filing an application, the <i>subdivider</i> must give written notice to all tenants, and to all persons who lease or reside in units proposed for conversion. The notice must include:</p> <ul style="list-style-type: none"> <li>• Building condition and sales program report</li> <li>• Management documents submitted to the California State Department of Real Estate</li> <li>• List of tenants' rights</li> </ul>	<p>Within 15 days of submitting an application, the <i>Director of DPW</i> shall mail notice to each tenant and to all tenants who take occupancy of a unit after an application is submitted. The notice must state that:</p> <ul style="list-style-type: none"> <li>• Application has been submitted and tenant has right to request a hearing</li> <li>• A copy of the subdivider's declaration submitted as part of the application</li> </ul>
<b>DPW Public Hearing</b>	<p>Any interested party may make a written request for a hearing within 10 days of notice.</p> <p>Hearing must be held after Planning Department review, with 10 days advance notice is given, and prior to tentative map approval.</p> <p>If 5 or more units are involved, a public hearing will be held before the City Planning Commission. Notice given to all lessees and tenants by the Planning Department.</p>	<p>A tenant may make a written request for a hearing within 10 days of notice.</p> <p>The Director must hold a public hearing within 21 days of the request. Notice of the hearing must be mailed to tenants at least 10 days before hearing.</p> <p>No corresponding provision</p>
<b>Resubmittal</b>	<p>If an application for conversion is withdrawn by the applicant, there can be no resubmittal for 6 months from the date of withdrawal.</p> <p>If an application for conversion is denied, or a tentative map disapproved, no new submittal for the same building for one year following the date of the denial.</p>	<p>No corresponding provision</p> <p>If a tentative map is disapproved, no new submittal for 18 months following the date of disapproval.</p>
<b>Time to Determine Complete</b>	<p>If submitted in accordance with the Permit Streamlining Act, an application can, if the City does not provide written notice of deficiencies in the application, be deemed complete 30 days after submission.</p>	<p>If Director of DPW fails to notify the applicant of the items required to complete the application within 15 days, it will be deemed filed on the 15<sup>th</sup> day.</p>
<b>Approval / Disapproval</b>	<p>Within 50 days of filing the tentative map, unless the time is extended by mutual consent, the Director must make a report on the map to the subdivider.</p> <p>The report must approve, conditionally approve or disapprove the tentative map. If the map is disapproved, the report must also state the reasons for disapproval.</p>	<p>The Director of DPW must approve or disapprove an application within 50 days after filing, except in cases of noncompliance with legislation, signatures obtained through fraud or duress, false declarations or failure to meet mandatory state requirements.</p> <p>If the Director fails to approve, conditionally approve, or disapprove a Tentative Map within 50 days after filing, the Tentative Map is deemed approved.</p>
<b>Administrative Fees</b>	<p>Administrative fees authorized plus time and materials.</p>	<p>Same</p>

## APPENDIX E: Role and Function of City Agencies

### Exhibit 3. Roles and Functions of City Agencies Under the Current Subdivision Code and the Subdivision Code Proposed under HOPE

Agency	Current Subdivision Code	Proposed Subdivision Code (HOPE)
<b>Department of Building Inspection</b>	Inspects buildings and sites for needed improvements/repairs; follow-up as needed	No corresponding provision
<b>Department of Public Works</b>	<ul style="list-style-type: none"> <li>Reviews application for completeness and notifies applicant of incomplete items</li> <li>Mails written notice of subdivision conferences</li> <li>Convenes and holds public hearings on map-related issues</li> <li>Prepares a report on all submitted reviews</li> <li>Distributes applications to applicable city agencies (City Planning, Bureau of Engineering, Bureau of Building Inspection, etc.)</li> <li>Submits recommendation to the Board, DPW, subdivider, and City agencies</li> <li>Holds hearings for subsequent appeals</li> <li>Approves, conditionally approves or disapproves applications</li> </ul>	<ul style="list-style-type: none"> <li>Reviews application for completeness and notifies applicant of incomplete items</li> <li>Notifies tenants of application submission and right to request a hearing; provides copy of the subdivider's declaration</li> <li>Convenes and holds public hearings if requested, and notifies tenants thereof</li> <li>Approves, conditionally approves or disapproves applications</li> <li>Manages subdivision lottery</li> </ul>
<b>Planning Department and Commission</b>	<p><b>Department:</b></p> <ul style="list-style-type: none"> <li>Review all maps to make sure maps meet General Plan and Planning Code conformity</li> <li>Checks for evidence of illegal construction; past Rent Board complaints; owner occupancy compliance, history of illegal evictions; proof that disabled tenants and seniors offered lifetime leases, etc.</li> </ul> <p>Commission reviews maps involving 5-6 units</p>	No corresponding provision
<b>Mayor's Office of Housing</b>	For applicants to lottery pool subject to re-sale price, tenant income levels and other restrictions, MOH determines whether required number of purchasing tenants meet income requirements.	In the event that an individual resells his/her unit within 2 years after close of escrow, MOH determines amount of gross profit in order to assess anti-speculation fee. MOH administers the anti-speculation fee fund.
<b>Controller</b>	Not applicable	Maintains anti-speculation fee fund
<b>Board of Supervisors</b>	Holds hearings for appeals of maps after DPW approval	No corresponding provision
<b>Other Agencies</b>	<p>Applicable City agencies are given opportunity to review and provide recommendations on proposed conversions within 30 days</p> <p>For properties of 5-6 units, subdivider must also have State approval and must obtain a Final Report from the California Department of Real Estate through a separate application package</p>	No corresponding provision

## APPENDIX F: Estimation of TORCA Units Purchased by Tenants

Current information on the percentage of converted TORCA units purchased by tenants residing in rental units prior to conversion is not available. However, using data from the 1993 evaluation report that includes a survey of TORCA tenants and an analysis of application and real estate information, it is possible to obtain a rough estimate of the proportion of converted TORCA units that were purchased by participating tenants at that time.

### Data

1,192 units approved for conversion  
 576 sold units based upon receipt of lien due to City upon transfer  
 465 sold units with sales data available  
 184 of the 465 units where purchaser name matches tenant name  
 38.7% of 200 purchasing tenants interviewed in separate survey had prior ownership interest

### Estimate Calculation

$184 \times .613 = 113$	- to obtain proportion of non-owning tenants
$465 / 576 = 80.7\%$	- to obtain proportion of units for which sales information was available
$1,192 \times .807 = 962$	- to approximate above proportion for population of converted units
$113 / 962 = 12\%$	- which is non-owning tenants / converted units

### Limitations

The actual figure may be slightly higher for the following reasons:

1. The figure from the 1993 report was derived by cross-referencing TORCA application data with purchaser names obtained from county property assessment data. Due to the fact that some households may have used different names on the TORCA application and for tax purposes, the number of purchasing tenants may be higher. This would increase the percentage, but the effect is likely negligible.
2. Sales information on units purchased between 1984 and 1986 were excluded from the analysis. This would increase the percentage, but the effect is likely negligible – due to the lengthy approval process period, the first approvals for TORCA conversions did not take place until Fall and Winter 1986. Consequently, it is likely that escrow on sales of units at those properties did not close until 1987 or later.
3. Many tenants of converted units that had not been sold were still in the two-year period of time during which the tenant could exercise his or her option to buy. This would increase the percentage, but the effect is likely negligible according to staff of the Santa Monica Housing Division. This results from the fact that the majority of tenant purchases took place early on in the two-year option to buy period<sup>4</sup>.

However, the actual figure may be slightly lower if tenants who re-sold their properties within the two-year period after purchase were excluded from the analysis. This was not prohibited under TORCA, but would be discouraged under HOPE. The report does not indicate how many tenants resold their units during this period of time, but it does indicate that 32% of tenants who purchased their units resold them.

Finally, due to small sample size, the margin of error for the percentage of TORCA purchasers who had a prior ownership interest in the property (38.7%) is  $\pm 14\%$ . Consequently, the final estimate could be either higher or lower.

<sup>4</sup> Phone interview with Kim Kemper, Senior Administrative Analyst, Santa Monica Housing Division, July 9, 2002.



## APPENDIX G: Share of Different-Sized Buildings by Planning District

Planning District	# Units in 20 plus bldgs	% City	Rank	# Units in 10 plus bldgs.	% City	Rank	# Units in 5 plus bldgs.	% City	Rank	# Units in 2 plus bldgs.	% City	Rank
Richmond	2,020	2.57%	10	6,088	5.25%	7	11,234	7.32%	5	26,525	11.34%	2
South Bayshore	258	0.33%	15	599	0.52%	14	1,512	0.99%	14	3,266	1.40%	15
Bernal Heights	274	0.35%	14	517	0.45%	15	998	0.65%	15	3,979	1.70%	14
Marina	6,034	7.67%	5	13,290	11.46%	4	16,980	11.07%	4	22,865	9.78%	5
Northeast	14,957	19.02%	2	21,620	18.64%	2	28,023	18.27%	1	35,022	14.98%	1
Downtown	22,693	28.86%	1	24,649	21.26%	1	25,156	16.40%	2	25,558	10.93%	4
Western Addition	11,487	14.61%	3	16,229	13.99%	3	20,139	13.13%	3	26,181	11.20%	3
Buena Vista	2,092	2.66%	9	3,915	3.38%	10	7,275	4.74%	9	14,290	6.11%	8
Central	2,348	2.99%	8	4,789	4.13%	8	7,828	5.10%	8	17,873	7.64%	7
Mission	3,787	4.82%	6	6,662	5.74%	6	10,917	7.12%	6	19,692	8.42%	6
South of Market	6,125	7.79%	4	7,294	6.29%	5	8,705	5.67%	7	11,453	4.90%	9
Inglewood	3,757	4.78%	7	4,679	4.03%	9	5,148	3.36%	10	6,582	2.82%	11
South Central	1,077	1.37%	12	1,921	1.66%	12	2,953	1.92%	12	5,665	2.42%	13
Inner Sunset	1,250	1.59%	11	2,591	2.23%	11	4,075	2.66%	11	8,287	3.54%	10
Outer Sunset	487	0.62%	13	1,155	1.00%	13	2,510	1.64%	13	6,575	2.81%	12
<b>Top 5 Planning District's Share of Total</b>	<b>77.94%</b>			<b>71.62%</b>			<b>66.16%</b>			<b>58.23%</b>		

Source: San Francisco Planning Department, 2000 Housing Inventory, "Housing Stock by Planning District-Table 25".

## APPENDIX H: Housing Units by Building Type and Planning District

Planning District/City	Single Family	2 to 4 Units	5 to 9 Units	10 to 19 Units	20 Plus Units	Total
San Francisco	105,761	80,399	37,451	37,334	78,634	339,579
Richmond	10,206	15,291	5,146	4,068	2,020	36,731
	9.65%	19.02%	13.74%	10.90%	2.57%	10.82%
Marina	2,737	5,885	3,690	7,256	6,034	25,602
	2.59%	7.32%	9.85%	19.44%	7.67%	7.54%
Northeast	1,456	6,999	6,403	6,663	14,957	36,478
	1.38%	8.71%	17.10%	17.85%	19.02%	10.74%
Downtown	90	402	507	1,956	22,693	25,648
	0.09%	0.50%	1.35%	5.24%	28.86%	7.55%
Western Addition	1,554	6,042	3,910	4,742	11,487	27,735
	1.47%	7.52%	10.44%	12.70%	14.61%	8.17%
Buena Vista	1,743	7,015	3,360	1,823	2,092	16,033
	1.65%	8.73%	8.97%	4.88%	2.66%	4.72%
Central	8,143	10,045	3,039	2,441	2,348	26,016
	7.70%	12.49%	8.11%	6.54%	2.99%	7.66%
Mission	2,333	8,775	4,255	2,875	3,787	22,025
	2.21%	10.91%	11.36%	7.70%	4.82%	6.49%
South of Market	2,117	2,748	1,411	1,169	6,125	13,570
	2.00%	3.42%	3.77%	3.13%	7.79%	4.00%
South Bayshore	6,654	1,754	913	341	258	9,920
	6.29%	2.18%	2.44%	0.91%	0.33%	2.92%
Bernal Heights	5,130	2,981	481	243	274	9,109
	4.85%	3.71%	1.28%	0.65%	0.35%	2.68%
South Central	19,491	2,712	1,032	844	1,077	25,156
	18.43%	3.37%	2.76%	2.26%	1.37%	7.41%
Ingleside	15,736	1,434	469	922	3,757	22,318
	14.88%	1.78%	1.25%	2.47%	4.78%	6.57%
Inner Sunset	9,717	4,212	1,484	1,341	1,250	18,004
	9.19%	5.24%	3.96%	3.59%	1.59%	5.30%
Outer Sunset	18,639	4,065	1,355	668	487	25,214
	17.62%	5.06%	3.62%	1.79%	0.62%	7.43%

Source: San Francisco Planning Department, 2000 Housing Inventory

## APPENDIX I: Planning Area Census Tracts

### Planning Area Census Tracts, 2000

Planning Area	Corresponding Census Tract ID, 2000
Richmond	133, 154, 156, 401-402, 426-428, 451-452, 476, 477.01-477.02, 478, 479.01-479.02, 602
South Bayshore	230.01-230.03, 231.01-231.03, 232-234, 606, 609-610
Bernal Heights	251-253, 254.01-254.03
Marina	126-132, 134-135
Northeast	101-115, 118-119
Downtown	117, 120-125, 176.01-176.02
Western Addition	151-153, 155, 157-165
Buena Vista	166-171
Central	203-206, 211-218
Mission	177, 201-202, 207-210, 228.01-228.03, 229.01-229.03
South of Market	178, 179.01, 180, 226, 227.01-227.03, 607
Ingleside	307, 309-314, 331, 332.01-332.02, 604
South Central	255-259, 260.01-260.04, 261-262, 263.01-263.03, 264.01-264.04, 605.01-605.02
Inner Sunset	301.01-301.02, 302.01-302.02, 303.01-303.02, 304-306, 308
Outer Sunset	326-330, 351, 352.01-352.02, 353-354

## APPENDIX J: Demographic Characteristics by Planning District

Demographic Characteristics													
Planning District	Pop	% White alone	% Black or African American alone	% American Indian and Alaska Native alone	% Asian alone	% Native Hawaiian or Other Pacific Islander alone	% Some other race alone	% Two or more races	# Housing Units	% Occupied Units	% Owner-Occupied	% Renter-Occupied	% Renter-occupied with house holder 65 plus years
Richmond	81,493	52.85%	1.83%	0.22%	39.94%	0.12%	1.50%	3.53%	36,207	98.80%	34.85%	62.35%	12.58%
South Bayshore	34,835	9.91%	46.09%	0.40%	26.49%	3.41%	9.65%	4.05%	10,039	96.99%	52.53%	47.47%	14.15%
Bernal Heights	24,952	51.15%	6.93%	0.60%	17.21%	0.48%	17.08%	6.56%	9,212	96.99%	52.77%	47.23%	9.08%
Marina	39,691	85.60%	1.07%	0.16%	9.89%	0.12%	0.98%	2.19%	25,713	94.94%	24.13%	75.87%	11.07%
Northeast	66,141	47.77%	1.47%	0.20%	46.68%	0.15%	1.30%	2.44%	39,187	92.06%	16.29%	83.71%	23.72%
Downtown	44,626	45.27%	9.79%	1.11%	31.86%	0.42%	5.77%	5.78%	27,115	91.26%	2.25%	97.75%	16.68%
Western Addition	53,111	55.33%	19.02%	0.40%	17.42%	0.34%	2.90%	4.59%	28,010	95.31%	18.22%	81.78%	19.40%
Buena Vista	29,880	77.42%	8.45%	0.61%	6.68%	0.18%	2.50%	4.15%	16,066	96.15%	24.52%	75.48%	5.57%
Central	46,804	77.62%	3.46%	0.48%	9.61%	0.19%	4.20%	4.44%	25,449	96.46%	41.65%	58.35%	6.84%
Mission	60,202	52.39%	3.46%	1.20%	11.17%	0.34%	25.06%	6.39%	22,424	96.56%	18.07%	81.93%	11.54%
South of Market	24,740	57.83%	13.82%	0.69%	17.97%	0.77%	4.45%	4.47%	13,164	92.78%	30.25%	69.75%	20.37%
Ingleside	61,362	41.40%	12.24%	0.29%	36.53%	0.31%	4.53%	4.67%	22,298	97.20%	61.77%	38.23%	16.12%
South Central	91,008	25.17%	6.63%	0.39%	48.11%	1.06%	13.77%	4.86%	24,976	97.75%	67.58%	32.42%	12.20%
Inner Sunset	43,392	60.81%	2.39%	0.22%	30.53%	0.19%	1.98%	3.89%	18,694	96.58%	51.91%	48.09%	9.18%
Outer Sunset	70,672	40.32%	1.21%	0.21%	53.46%	0.14%	1.31%	3.35%	25,812	96.96%	59.96%	40.04%	10.63%
San Francisco County	776,733	49.66%	7.79%	0.45%	30.84%	0.49%	6.48%	4.28%	346,527	95.14%	35.00%	65.00%	14.42%

Source: Census 2000 Summary File 1 (SF 1) 100-Percent Data and San Francisco Planning Department, "2000 Housing Inventory".

## APPENDIX K: Residential Multi-unit Building Sales Summary

The San Francisco Association of Realtors provided sales data for multi-unit residential buildings in the City of San Francisco. Sales data from July 2001-June 2002 comes from the multiple listing system. Not all transactions go through the multiple listing system. Data does not include units or properties directly sold between owners and buyers; nor does it include properties listed where the sale was allowed to expire or the record was withdrawn because sales data was not entered. The estimated median prices and calculations below may be slightly higher than the actual median because properties not listed may have been negotiated at lower prices. For example, sales that were directly made between owner and buyer may be lower if both parties do not have to pay a sales commission to a real estate agent, etc. In the analysis of 2-4 unit multi-unit buildings and multi-unit buildings overall, one property sold at a price of \$1,000 was omitted as a statistical outlier.

Descriptive stats for all residential multi-unit bldgs	
Total # Units	2665
Total # of Properties	766
Avg # of Units	3.48
Sum of Sales	\$760,650,794.00
Avg Sales Price	\$993,016.70
Price/unit	\$285,422.44
Low Sale Price	\$285,000.00
High Sale Price	\$14,000,000.00
Median Sales Price	\$830,000.00
Range of # of Units	2-115
Median # of Units	2

Descriptive stats for residential 2-4 unit bldgs	
Total # Units	1608
Total # of Properties	670
Avg # of Units	2.40
Sum of Sales	\$587,641,807.00
Avg Sales Price	\$877,077.32
Price/unit	\$365,448.88
Low Sale Price	\$285,000.00
High Sale Price	\$4,950,000.00
Median Sales Price	\$799,000.00
Range of # of Units	2-4
Median # of Units	2

Descriptive stats for residential 5+ unit bldgs	
Total # Units	1057
Total # of Properties	96
Avg # of Units	11.01
Sum of Sales	\$173,008,987.00
Avg Sales Price	\$1,802,176.95
Price/unit	\$163,679.27
Low Sale Price	\$625,000.00
High Sale Price	\$14,000,000.00
Median Sales Price	\$1,427,500.00
Range of # of Units	5-115
Median # of Units	7

# APPENDIX K: Renting v. Buying Comparisons (continued)

Renting (Rent-controlled with 2.70% annual increase) Assumes net state at \$142k; 2.7% annual increase										Purchasing Purchase Price \$490,000; 20% Down; 30-year, 6%Interest; 1.12%property tax; 2% yearly home value increase rate							
Yr.	Rent	After 12 months	Summary	Months of Rent	Average MO Rent	Price of Home After Appreciation	Remaining Balance	Equity Earned	Tax Savings	Avg. Monthly Payment over time	Total Payment	Difference	Sum Condo Fees @ \$250/mo	Total Paymet plus condo fees	Difference plus condo fees	Mo payment over time plus condo fees	Verdict
1	\$ 1,248.00	\$ 14,976.00	\$ 30,976.00	24	\$ 1,248.00	\$ 505,000.00	\$ 354,500.00	\$ 154,077.00	\$ 9,271.00	\$ 1,248.00	\$ 40,515.00	\$ (31,539.00)	\$ 2,400.00	\$ 43,915.00	\$ (33,339.00)	\$ 4,076.25	Rent
2	\$ 1,281.00	\$ 15,380.35	\$ 32,358.35	24	\$ 1,281.00	\$ 519,150.00	\$ 369,100.00	\$ 159,000.00	\$ 9,564.00	\$ 1,313.60	\$ 41,868.00	\$ (32,464.00)	\$ 2,400.00	\$ 45,268.00	\$ (33,944.00)	\$ 4,225.21	Rent
3	\$ 1,315.00	\$ 15,786.00	\$ 33,741.00	36	\$ 1,315.00	\$ 533,300.00	\$ 379,300.00	\$ 163,950.00	\$ 9,859.00	\$ 1,388.40	\$ 43,227.00	\$ (31,477.00)	\$ 2,400.00	\$ 46,627.00	\$ (34,459.00)	\$ 4,478.21	Rent
4	\$ 1,351.84	\$ 16,192.10	\$ 35,134.10	48	\$ 1,351.84	\$ 547,450.00	\$ 394,550.00	\$ 168,900.00	\$ 10,154.00	\$ 1,464.00	\$ 44,586.00	\$ (30,408.00)	\$ 2,400.00	\$ 48,026.00	\$ (35,410.00)	\$ 4,736.00	Rent
5	\$ 1,388.34	\$ 16,600.10	\$ 36,528.10	60	\$ 1,388.34	\$ 561,600.00	\$ 410,750.00	\$ 173,850.00	\$ 10,449.00	\$ 1,539.60	\$ 45,945.00	\$ (29,360.00)	\$ 2,400.00	\$ 49,345.00	\$ (36,362.00)	\$ 4,983.00	Rent
6	\$ 1,425.63	\$ 17,009.92	\$ 37,924.10	72	\$ 1,425.63	\$ 575,850.00	\$ 424,950.00	\$ 178,800.00	\$ 10,744.00	\$ 1,615.20	\$ 47,304.00	\$ (28,311.00)	\$ 2,400.00	\$ 50,704.00	\$ (37,313.00)	\$ 5,239.00	Rent
7	\$ 1,464.32	\$ 17,571.80	\$ 39,300.88	84	\$ 1,464.32	\$ 590,100.00	\$ 439,150.00	\$ 183,750.00	\$ 11,039.00	\$ 1,690.80	\$ 48,663.00	\$ (27,262.00)	\$ 2,400.00	\$ 52,063.00	\$ (38,264.00)	\$ 5,493.00	Rent
8	\$ 1,503.86	\$ 18,043.33	\$ 40,673.66	96	\$ 1,503.86	\$ 604,350.00	\$ 453,400.00	\$ 188,700.00	\$ 11,334.00	\$ 1,766.40	\$ 49,982.00	\$ (26,213.00)	\$ 2,400.00	\$ 53,382.00	\$ (39,215.00)	\$ 5,748.00	Rent
9	\$ 1,544.47	\$ 18,525.58	\$ 42,049.13	108	\$ 1,544.47	\$ 618,600.00	\$ 467,650.00	\$ 193,650.00	\$ 11,629.00	\$ 1,842.00	\$ 51,301.00	\$ (25,164.00)	\$ 2,400.00	\$ 54,701.00	\$ (40,166.00)	\$ 5,997.00	Rent
10	\$ 1,586.17	\$ 19,023.99	\$ 43,424.60	120	\$ 1,586.17	\$ 632,850.00	\$ 481,900.00	\$ 198,600.00	\$ 11,924.00	\$ 1,917.60	\$ 52,620.00	\$ (24,115.00)	\$ 2,400.00	\$ 56,020.00	\$ (41,117.00)	\$ 6,246.00	Rent
11	\$ 1,628.99	\$ 19,547.91	\$ 44,800.07	132	\$ 1,628.99	\$ 647,100.00	\$ 496,150.00	\$ 203,550.00	\$ 12,219.00	\$ 1,993.20	\$ 53,939.00	\$ (23,066.00)	\$ 2,400.00	\$ 57,339.00	\$ (42,068.00)	\$ 6,495.00	Rent
12	\$ 1,672.98	\$ 20,075.70	\$ 46,175.55	144	\$ 1,672.98	\$ 661,350.00	\$ 510,400.00	\$ 208,500.00	\$ 12,514.00	\$ 2,068.80	\$ 55,258.00	\$ (22,017.00)	\$ 2,400.00	\$ 58,658.00	\$ (43,019.00)	\$ 6,744.00	Rent
13	\$ 1,718.15	\$ 20,617.74	\$ 47,550.72	156	\$ 1,718.15	\$ 675,600.00	\$ 524,650.00	\$ 213,450.00	\$ 12,809.00	\$ 2,144.40	\$ 56,577.00	\$ (20,968.00)	\$ 2,400.00	\$ 59,977.00	\$ (43,970.00)	\$ 6,993.00	Rent
14	\$ 1,764.54	\$ 21,174.47	\$ 48,925.99	168	\$ 1,764.54	\$ 689,850.00	\$ 538,900.00	\$ 218,400.00	\$ 13,104.00	\$ 2,220.00	\$ 57,896.00	\$ (19,919.00)	\$ 2,400.00	\$ 61,296.00	\$ (44,921.00)	\$ 7,242.00	Rent
15	\$ 1,812.18	\$ 21,744.13	\$ 50,301.26	180	\$ 1,812.18	\$ 704,100.00	\$ 553,150.00	\$ 223,350.00	\$ 13,400.00	\$ 2,295.60	\$ 59,215.00	\$ (18,870.00)	\$ 2,400.00	\$ 62,615.00	\$ (45,872.00)	\$ 7,491.00	Rent
16	\$ 1,861.11	\$ 22,333.28	\$ 51,676.53	192	\$ 1,861.11	\$ 718,350.00	\$ 567,400.00	\$ 228,300.00	\$ 13,695.00	\$ 2,371.20	\$ 60,534.00	\$ (17,821.00)	\$ 2,400.00	\$ 63,934.00	\$ (46,823.00)	\$ 7,740.00	Rent
17	\$ 1,911.38	\$ 22,938.28	\$ 53,051.80	204	\$ 1,911.38	\$ 732,600.00	\$ 581,650.00	\$ 233,250.00	\$ 13,990.00	\$ 2,446.80	\$ 61,853.00	\$ (16,772.00)	\$ 2,400.00	\$ 65,253.00	\$ (47,774.00)	\$ 7,989.00	Rent
18	\$ 1,962.96	\$ 23,558.60	\$ 54,427.07	216	\$ 1,962.96	\$ 746,850.00	\$ 595,900.00	\$ 238,200.00	\$ 14,285.00	\$ 2,522.40	\$ 63,172.00	\$ (15,723.00)	\$ 2,400.00	\$ 66,572.00	\$ (48,725.00)	\$ 8,238.00	Rent
19	\$ 2,015.96	\$ 24,191.56	\$ 55,802.34	228	\$ 2,015.96	\$ 761,100.00	\$ 610,150.00	\$ 243,150.00	\$ 14,580.00	\$ 2,598.00	\$ 64,491.00	\$ (14,674.00)	\$ 2,400.00	\$ 67,891.00	\$ (49,676.00)	\$ 8,487.00	Rent
20	\$ 2,070.39	\$ 24,844.73	\$ 57,177.61	240	\$ 2,070.39	\$ 775,350.00	\$ 624,400.00	\$ 248,100.00	\$ 14,875.00	\$ 2,673.60	\$ 65,810.00	\$ (13,625.00)	\$ 2,400.00	\$ 69,210.00	\$ (50,627.00)	\$ 8,736.00	Rent
21	\$ 2,126.29	\$ 25,515.54	\$ 58,552.88	252	\$ 2,126.29	\$ 789,600.00	\$ 638,650.00	\$ 253,050.00	\$ 15,170.00	\$ 2,749.20	\$ 67,129.00	\$ (12,576.00)	\$ 2,400.00	\$ 70,529.00	\$ (51,578.00)	\$ 8,985.00	Rent
22	\$ 2,183.70	\$ 26,204.48	\$ 59,928.15	264	\$ 2,183.70	\$ 803,850.00	\$ 652,900.00	\$ 258,000.00	\$ 15,465.00	\$ 2,824.80	\$ 68,448.00	\$ (11,527.00)	\$ 2,400.00	\$ 71,848.00	\$ (52,529.00)	\$ 9,234.00	Rent
23	\$ 2,242.68	\$ 26,911.58	\$ 61,303.42	276	\$ 2,242.68	\$ 818,100.00	\$ 667,150.00	\$ 262,950.00	\$ 15,760.00	\$ 2,900.40	\$ 69,767.00	\$ (10,478.00)	\$ 2,400.00	\$ 73,167.00	\$ (53,480.00)	\$ 9,483.00	Rent
24	\$ 2,303.27	\$ 27,638.60	\$ 62,678.69	288	\$ 2,303.27	\$ 832,350.00	\$ 681,400.00	\$ 267,900.00	\$ 16,055.00	\$ 2,976.00	\$ 71,086.00	\$ (9,429.00)	\$ 2,400.00	\$ 74,486.00	\$ (54,431.00)	\$ 9,732.00	Rent
25	\$ 2,365.40	\$ 28,384.64	\$ 64,053.96	300	\$ 2,365.40	\$ 846,600.00	\$ 695,650.00	\$ 272,850.00	\$ 16,350.00	\$ 3,051.60	\$ 72,405.00	\$ (8,380.00)	\$ 2,400.00	\$ 75,805.00	\$ (55,382.00)	\$ 9,981.00	Rent
26	\$ 2,429.27	\$ 29,151.23	\$ 65,429.23	312	\$ 2,429.27	\$ 860,850.00	\$ 709,900.00	\$ 277,800.00	\$ 16,645.00	\$ 3,127.20	\$ 73,724.00	\$ (7,331.00)	\$ 2,400.00	\$ 77,124.00	\$ (56,333.00)	\$ 10,230.00	Rent
27	\$ 2,494.88	\$ 29,938.32	\$ 66,804.50	324	\$ 2,494.88	\$ 875,100.00	\$ 724,150.00	\$ 282,750.00	\$ 16,940.00	\$ 3,202.80	\$ 75,043.00	\$ (6,282.00)	\$ 2,400.00	\$ 78,443.00	\$ (57,284.00)	\$ 10,479.00	Rent
28	\$ 2,562.22	\$ 30,736.65	\$ 68,179.77	336	\$ 2,562.22	\$ 889,350.00	\$ 738,400.00	\$ 287,700.00	\$ 17,235.00	\$ 3,278.40	\$ 76,362.00	\$ (5,233.00)	\$ 2,400.00	\$ 79,762.00	\$ (58,235.00)	\$ 10,728.00	Rent
29	\$ 2,631.40	\$ 31,546.81	\$ 69,555.04	348	\$ 2,631.40	\$ 903,600.00	\$ 752,650.00	\$ 292,650.00	\$ 17,530.00	\$ 3,354.00	\$ 77,681.00	\$ (4,184.00)	\$ 2,400.00	\$ 81,081.00	\$ (59,186.00)	\$ 10,977.00	Rent
30	\$ 2,702.45	\$ 32,369.38	\$ 70,930.31	360	\$ 2,702.45	\$ 917,850.00	\$ 766,900.00	\$ 297,600.00	\$ 17,825.00	\$ 3,429.60	\$ 79,000.00	\$ (3,135.00)	\$ 2,400.00	\$ 82,400.00	\$ (60,137.00)	\$ 11,226.00	Buy



# APPENDIX K: Renting v. Buying Comparisons (continued)

Renting (Rent-controlled with 2.70% annual increase)										Buying (Purchase Price \$499,000, 20% Down, 30-year, 6.125% interest, 1.13% property tax, 2% yearly home value increase rate)									
YR	1st Rent	After 12 months	Summary	Months of Rent	Average MO Rent	Price of Home After Appreciation	Remaining Balance	Equity Earned	Tax Savings	Arp. Monthly Payment over time	Total Payment	Difference	Sum Condo Fees (\$2,000/mo)	Total Payment plus condo fees	Difference plus condo fees	Mo payment on condo fees	Verdict		
1	\$ 1,618.00	\$ 19,292.00	\$ 19,392.00	12	\$ 1,616.00	\$ 508,980.00	\$ 394,303.00	\$ 114,677.00	\$ 8,271.00	\$ 3,876.00	\$ 46,515.00	\$ (27,123.00)	\$ 2,400.00	\$ 48,915.00	\$ (26,520.00)	\$ 4,076.25	Rent		
2	\$ 1,659.63	\$ 19,915.56	\$ 39,307.56	24	\$ 1,637.62	\$ 519,150.00	\$ 389,194.00	\$ 130,955.00	\$ 10,542.00	\$ 2,525.00	\$ 69,605.00	\$ (1,297.42)	\$ 4,800.00	\$ 65,405.00	\$ (26,097.42)	\$ 2,726.21	Rent		
3	\$ 1,704.44	\$ 20,453.30	\$ 59,760.86	36	\$ 1,680.02	\$ 529,547.00	\$ 383,564.00	\$ 145,988.00	\$ 12,814.00	\$ 2,000.00	\$ 74,181.00	\$ (1,420.11)	\$ 7,200.00	\$ 81,361.00	\$ (21,620.11)	\$ 2,260.98	Rent		
4	\$ 1,750.46	\$ 21,005.54	\$ 80,766.43	48	\$ 1,682.63	\$ 540,133.00	\$ 377,723.00	\$ 162,410.00	\$ 13,085.00	\$ 1,817.00	\$ 87,222.00	\$ (6,155.57)	\$ 9,600.00	\$ 96,827.00	\$ (16,055.57)	\$ 2,017.13	Rent		
5	\$ 1,797.72	\$ 21,572.69	\$ 102,336.13	60	\$ 1,729.85	\$ 550,936.00	\$ 371,501.00	\$ 179,835.00	\$ 14,357.00	\$ 1,681.00	\$ 99,701.00	\$ (11,596.00)	\$ 12,000.00	\$ 111,701.00	\$ (9,361.87)	\$ 1,861.68	Rent		
6	\$ 1,846.26	\$ 22,155.16	\$ 124,494.28	72	\$ 1,759.05	\$ 561,955.00	\$ 364,898.00	\$ 197,659.00	\$ 14,628.00	\$ 1,549.00	\$ 111,596.00	\$ (24,872.83)	\$ 14,400.00	\$ 125,996.00	\$ (1,501.72)	\$ 1,749.84	Rent		
7	\$ 1,898.11	\$ 22,753.35	\$ 147,247.63	84	\$ 1,757.95	\$ 573,194.00	\$ 357,883.00	\$ 215,311.00	\$ 15,899.00	\$ 1,462.00	\$ 122,875.00	\$ (37,106.31)	\$ 16,800.00	\$ 139,675.00	\$ 7,577.63	\$ 1,662.80	Buy		
8	\$ 1,947.31	\$ 23,367.69	\$ 170,615.31	96	\$ 1,777.24	\$ 584,650.00	\$ 350,437.00	\$ 234,221.00	\$ 16,171.00	\$ 1,390.00	\$ 133,509.00	\$ (51,443.93)	\$ 19,200.00	\$ 152,709.00	\$ 17,909.31	\$ 1,560.72	Buy		
9	\$ 1,999.89	\$ 23,996.61	\$ 194,613.93	108	\$ 1,801.88	\$ 596,351.00	\$ 342,527.00	\$ 253,019.00	\$ 17,442.00	\$ 1,298.00	\$ 143,470.00	\$ (65,537.50)	\$ 21,600.00	\$ 165,070.00	\$ 29,543.93	\$ 1,508.43	Buy		
10	\$ 2,053.85	\$ 24,648.58	\$ 219,260.50	120	\$ 1,827.17	\$ 608,278.00	\$ 334,160.00	\$ 274,138.00	\$ 18,714.00	\$ 1,212.00	\$ 157,235.00	\$ (83,337.54)	\$ 24,000.00	\$ 176,723.00	\$ 46,537.50	\$ 1,427.68	Buy		
11	\$ 2,109.34	\$ 25,312.03	\$ 244,917.54	132	\$ 1,852.82	\$ 620,441.00	\$ 325,230.00	\$ 295,113.00	\$ 19,985.00	\$ 1,121.00	\$ 167,235.00	\$ (101,235.00)	\$ 26,400.00	\$ 193,635.00	\$ 66,400.00	\$ 1,421.48	Buy		
12	\$ 2,166.78	\$ 26,007.34	\$ 270,965.33	144	\$ 1,879.55	\$ 632,654.00	\$ 315,641.00	\$ 316,472.00	\$ 21,266.00	\$ 1,029.00	\$ 177,235.00	\$ (121,235.00)	\$ 28,800.00	\$ 206,035.00	\$ 84,800.00	\$ 1,346.68	Buy		
13	\$ 2,224.78	\$ 26,727.34	\$ 297,265.33	156	\$ 1,905.95	\$ 644,917.00	\$ 305,451.00	\$ 337,723.00	\$ 22,547.00	\$ 937.00	\$ 187,235.00	\$ (141,235.00)	\$ 31,200.00	\$ 218,435.00	\$ 103,200.00	\$ 1,271.68	Buy		
14	\$ 2,284.85	\$ 27,478.16	\$ 324,863.50	168	\$ 1,932.64	\$ 657,239.00	\$ 295,061.00	\$ 358,915.00	\$ 23,828.00	\$ 845.00	\$ 197,235.00	\$ (161,235.00)	\$ 33,600.00	\$ 231,035.00	\$ 122,600.00	\$ 1,202.68	Buy		
15	\$ 2,346.54	\$ 28,258.45	\$ 352,841.95	180	\$ 1,960.23	\$ 669,572.00	\$ 284,471.00	\$ 379,389.00	\$ 25,109.00	\$ 753.00	\$ 207,235.00	\$ (181,235.00)	\$ 36,000.00	\$ 243,235.00	\$ 142,000.00	\$ 1,132.68	Buy		
16	\$ 2,409.89	\$ 29,078.73	\$ 381,760.68	192	\$ 1,988.34	\$ 681,917.00	\$ 273,081.00	\$ 400,915.00	\$ 26,390.00	\$ 661.00	\$ 217,235.00	\$ (201,235.00)	\$ 38,400.00	\$ 255,635.00	\$ 161,400.00	\$ 992.68	Buy		
17	\$ 2,474.96	\$ 29,939.54	\$ 411,460.22	204	\$ 2,016.96	\$ 694,272.00	\$ 261,681.00	\$ 422,589.00	\$ 27,671.00	\$ 569.00	\$ 227,235.00	\$ (221,235.00)	\$ 40,800.00	\$ 268,035.00	\$ 180,800.00	\$ 922.68	Buy		
18	\$ 2,541.79	\$ 30,851.43	\$ 441,861.85	216	\$ 2,045.12	\$ 706,647.00	\$ 250,381.00	\$ 444,289.00	\$ 28,952.00	\$ 477.00	\$ 237,235.00	\$ (241,235.00)	\$ 43,200.00	\$ 280,435.00	\$ 200,200.00	\$ 852.68	Buy		
19	\$ 2,610.41	\$ 31,824.96	\$ 473,286.61	228	\$ 2,073.62	\$ 719,042.00	\$ 239,081.00	\$ 466,209.00	\$ 30,233.00	\$ 385.00	\$ 247,235.00	\$ (261,235.00)	\$ 45,600.00	\$ 292,835.00	\$ 220,600.00	\$ 782.68	Buy		
20	\$ 2,680.89	\$ 32,870.74	\$ 505,457.35	240	\$ 2,102.07	\$ 731,457.00	\$ 227,781.00	\$ 488,139.00	\$ 31,514.00	\$ 293.00	\$ 257,235.00	\$ (281,235.00)	\$ 48,000.00	\$ 305,235.00	\$ 240,000.00	\$ 712.68	Buy		
21	\$ 2,752.28	\$ 33,939.35	\$ 538,496.70	252	\$ 2,130.89	\$ 743,887.00	\$ 216,481.00	\$ 510,189.00	\$ 32,795.00	\$ 201.00	\$ 267,235.00	\$ (301,235.00)	\$ 50,400.00	\$ 317,635.00	\$ 260,400.00	\$ 642.68	Buy		
22	\$ 2,827.62	\$ 35,031.41	\$ 572,428.11	264	\$ 2,159.29	\$ 756,332.00	\$ 205,181.00	\$ 532,247.00	\$ 34,076.00	\$ 109.00	\$ 277,235.00	\$ (321,235.00)	\$ 52,800.00	\$ 329,035.00	\$ 280,800.00	\$ 572.68	Buy		
23	\$ 2,903.96	\$ 36,147.56	\$ 607,275.67	276	\$ 2,187.27	\$ 768,797.00	\$ 193,881.00	\$ 554,316.00	\$ 35,357.00	\$ 17.00	\$ 287,235.00	\$ (341,235.00)	\$ 55,200.00	\$ 341,435.00	\$ 300,200.00	\$ 502.68	Buy		
24	\$ 2,982.37	\$ 37,288.44	\$ 643,064.11	288	\$ 2,215.88	\$ 781,272.00	\$ 182,581.00	\$ 576,381.00	\$ 36,638.00	\$ 8.00	\$ 297,235.00	\$ (361,235.00)	\$ 57,600.00	\$ 353,835.00	\$ 320,600.00	\$ 432.68	Buy		
25	\$ 3,062.89	\$ 38,454.73	\$ 679,618.84	300	\$ 2,245.00	\$ 793,767.00	\$ 171,281.00	\$ 598,489.00	\$ 37,919.00	\$ 0.00	\$ 307,235.00	\$ (381,235.00)	\$ 60,000.00	\$ 366,235.00	\$ 340,000.00	\$ 362.68	Buy		
26	\$ 3,145.59	\$ 39,647.11	\$ 717,965.95	312	\$ 2,274.71	\$ 806,282.00	\$ 160,081.00	\$ 620,647.00	\$ 39,200.00	\$ 0.00	\$ 317,235.00	\$ (401,235.00)	\$ 62,400.00	\$ 378,635.00	\$ 360,400.00	\$ 292.68	Buy		
27	\$ 3,230.59	\$ 40,869.99	\$ 757,221.71	324	\$ 2,304.22	\$ 818,807.00	\$ 148,881.00	\$ 642,805.00	\$ 40,481.00	\$ 0.00	\$ 327,235.00	\$ (421,235.00)	\$ 64,800.00	\$ 391,035.00	\$ 380,800.00	\$ 222.68	Buy		
28	\$ 3,317.76	\$ 42,122.07	\$ 798,445.20	336	\$ 2,334.48	\$ 831,342.00	\$ 137,681.00	\$ 664,963.00	\$ 41,762.00	\$ 0.00	\$ 337,235.00	\$ (441,235.00)	\$ 67,200.00	\$ 403,435.00	\$ 400,200.00	\$ 152.68	Buy		
29	\$ 3,407.33	\$ 43,407.92	\$ 837,033.12	348	\$ 2,405.27	\$ 843,887.00	\$ 126,481.00	\$ 687,121.00	\$ 43,043.00	\$ 0.00	\$ 347,235.00	\$ (461,235.00)	\$ 69,600.00	\$ 415,835.00	\$ 420,600.00	\$ 82.68	Buy		
30	\$ 3,498.32	\$ 44,791.89	\$ 879,625.02	360	\$ 2,441.74	\$ 856,441.00	\$ 115,281.00	\$ 709,280.00	\$ 44,324.00	\$ 0.00	\$ 357,235.00	\$ (481,235.00)	\$ 72,000.00	\$ 428,235.00	\$ 440,000.00	\$ 12.68	Buy		

# APPENDIX K: Renting v. Buying Comparisons (continued)

Renting (Rent-controlled with 2.70% annual increase) Assumes rent starts at \$2043, 2.7% annual increase										Purchasing Purchase Price \$498,000; 20% Down; 30-year, 6% interest, 1.12% property tax, 2% yearly home value increase rate									
YR	Rent	After 12 months	Summary	Months of Rent	Average MO Rent	Price of Home After Appreciation	Remaining Balance	Equity Earned	Tax Savings	Avg. Monthly Payment over 30-yr term	Total Payment	Difference	Sum Costs (over 30-yr term)	Total Principal plus costs less equity	Difference plus costs less equity	Mo. payment (over 30-yr term)	Verdict		
1	\$2,043.00	\$24,516.00	\$24,516.00	12	\$2,043.00	\$508,960.00	\$384,300.00	\$114,677.00	\$6,271.00	\$3,079.00	\$46,515.00	\$(21,909.00)	\$2,400.00	\$48,915.00	\$(24,399.00)	\$4,079.25	Rent		
2	\$2,098.15	\$25,177.63	\$49,693.63	24	\$2,070.56	\$519,150.00	\$389,104.00	\$130,055.00	\$6,442.00	\$2,925.00	\$60,605.00	\$(10,911.07)	\$4,000.00	\$51,605.00	\$(13,711.07)	\$4,279.21	Rent		
3	\$2,154.81	\$25,857.74	\$75,551.67	36	\$2,098.66	\$529,542.00	\$383,594.00	\$145,958.00	\$6,614.00	\$2,660.00	\$74,181.00	\$1,370.67	\$7,200.00	\$81,381.00	\$5,679.33	\$2,260.56	Rent		
4	\$2,212.99	\$26,555.90	\$102,107.56	48	\$2,127.24	\$540,133.00	\$371,720.00	\$162,410.00	\$6,785.00	\$1,817.00	\$87,222.00	\$4,885.56	\$9,600.00	\$96,822.00	\$5,295.56	\$2,017.13	Buy		
5	\$2,272.74	\$27,272.80	\$129,380.47	60	\$2,156.34	\$550,940.00	\$357,530.00	\$179,435.00	\$6,950.00	\$1,357.00	\$99,761.00	\$6,785.47	\$12,000.00	\$111,761.00	\$17,679.47	\$1,861.68	Buy		
6	\$2,334.11	\$28,002.27	\$157,389.74	72	\$2,185.97	\$561,955.00	\$344,896.00	\$197,059.00	\$7,115.00	\$928.00	\$111,598.00	\$6,785.47	\$14,400.00	\$125,998.00	\$31,393.74	\$1,749.94	Buy		
7	\$2,397.13	\$28,745.52	\$186,155.26	84	\$2,218.13	\$573,184.00	\$327,883.00	\$215,311.00	\$7,280.00	\$769.00	\$122,875.00	\$6,785.47	\$16,800.00	\$139,675.00	\$48,800.26	\$1,662.80	Buy		
8	\$2,461.85	\$29,542.19	\$215,697.48	96	\$2,248.65	\$584,650.00	\$305,437.00	\$234,221.00	\$7,442.00	\$1,390.00	\$133,609.00	\$6,785.47	\$19,200.00	\$157,709.00	\$62,888.46	\$1,590.72	Buy		
9	\$2,528.32	\$30,339.83	\$246,037.29	108	\$2,278.12	\$596,357.00	\$284,532.00	\$253,819.00	\$7,614.00	\$1,278.00	\$143,470.00	\$6,785.47	\$21,600.00	\$165,070.00	\$80,867.29	\$1,528.43	Buy		
10	\$2,596.58	\$31,139.01	\$277,196.29	120	\$2,309.97	\$608,270.00	\$264,140.00	\$274,138.00	\$7,784.00	\$1,220.00	\$152,723.00	\$6,785.47	\$24,000.00	\$176,723.00	\$108,473.29	\$1,472.69	Buy		
11	\$2,666.69	\$32,000.30	\$305,188.59	132	\$2,342.43	\$620,443.00	\$245,230.00	\$295,213.00	\$7,955.00	\$1,221.00	\$161,235.00	\$6,785.47	\$26,400.00	\$197,635.00	\$127,551.59	\$1,421.48	Buy		
12	\$2,738.69	\$32,860.31	\$342,060.90	144	\$2,375.42														
13	\$2,812.94	\$33,750.84	\$375,019.76	156	\$2,408.41														
14	\$2,889.57	\$34,668.57	\$408,088.33	168	\$2,441.31														
15	\$2,968.57	\$35,609.84	\$446,074.32	180	\$2,473.19														
16	\$3,048.67	\$36,565.01	\$489,834.33	192	\$2,513.72														
17	\$3,128.93	\$37,541.13	\$520,181.46	204	\$2,549.91														
18	\$3,213.41	\$38,560.90	\$558,747.36	216	\$2,586.77														
19	\$3,300.17	\$39,602.04	\$598,344.40	228	\$2,624.32														
20	\$3,389.27	\$40,671.30	\$639,015.70	240	\$2,662.57														
21	\$3,480.79	\$41,769.42	\$680,785.12	252	\$2,701.53	\$741,487.00	\$215,770.00	\$525,717.00	\$105,628.00	\$23.00	\$197,766.00	\$441,389.70	\$46,000.00	\$245,766.00	\$353,369.70	\$1,022.76	Buy		
22	\$3,574.77	\$42,897.20	\$723,882.32	264	\$2,741.22														
23	\$3,671.29	\$44,055.42	\$768,737.74	276	\$2,781.68														
24	\$3,770.41	\$45,244.92	\$816,882.66	288	\$2,822.86														
25	\$3,872.21	\$46,468.53	\$869,449.19	300	\$2,864.83														
26	\$3,976.76	\$47,721.13	\$907,170.32	312	\$2,907.60														
27	\$4,084.13	\$49,000.60	\$950,192.92	324	\$2,951.17														
28	\$4,194.40	\$50,332.88	\$1,000,512.78	336	\$3,000.83														
29	\$4,307.65	\$51,867.84	\$1,056,204.02	348	\$3,049.85														
30	\$4,423.92	\$53,607.57	\$1,117,292.15	360	\$3,098.92	\$993,860.00	\$	\$993,860.00	\$248,142.00	\$27.00	\$117,860.00	\$939,436.15	\$72,000.00	\$109,860.00	\$971,426.15	\$527.41	Buy		

## APPENDIX L: Rent v. Buy Comparison

There are several ways to approach the concept of affordability. One approach is to consider affordability in the long-run. While monthly payments or initial outlays may be more expensive when buying a home (or more specifically, a condo in HOPE's case) as opposed to renting in the short-run, individuals may find purchasing a housing unit more affordable in the long-run. The key difference arises because homebuyers are able to build equity over time and as appreciation of property values in San Francisco continue to rise, homeownership becomes more attractive as homebuyers are able to experience higher returns in equity.

Many factors drive the decision on whether to rent or buy. These include, but are not limited to, a tenant's current rent level, annual allowable rent increases under the rent ordinance, purchase price of a housing unit, appreciation rates of homes/units, tax savings from home ownership and the number of years a homebuyer expects to stay in the home/unit. The lower the rental rate compared to the monthly costs of homeownership, the more time is needed to make homeownership a more affordable option (see following comparison charts).

In running simple comparisons on the average cost of renting in rent controlled units compared to purchasing a housing unit such as a condo, several sources of information were used including: data on current rent levels, median condo sales prices, annual allowable rent increases under the rent ordinance, and a comparison engine found on the Ginnie Mae website ([www.ginniemae.gov](http://www.ginniemae.gov), "Buy v. Rent Calculator").

Assumptions on rent control are: a constant annual allowable increase of 2.7% (the current annual allowable increase effective March 1, 2001-February 28, 2003); no rent decontrol (meaning the original tenant stays at the current rental unit); and starting rental rates of \$1248, \$1616 and \$2043 (MOH's "2002 Rent Limits for Housing Programs" shows in 2002, the fair market values of rent in the San Francisco PMSA were \$1,248 for a studio, \$1,616 for a one bedroom, \$2,043 for a two bedroom).

Assumptions on the home-buying portion of the comparison include: sale price of \$499,000 (median sale price of condos in San Francisco according to Bay Area Economic's *Housing Databook*), downpayment of 20%, 30-year mortgage, 6% interest rate, 1.12% property tax rate, 2% yearly home value increase. The Ginnie Mae "Buy v. Rent Calculator" considers these factors, among others (private mortgage insurance, homeowner insurance cost, loan closing cost, cost of selling a home, property tax, homeowners tax savings) to estimate the price of the home after appreciation, the equity earned, tax savings, and average monthly payment over time. In addition, condo association fees are also factored in (other insurance costs are not) in order to derive the monthly payments over time. A comparison between the monthly payments over time in renting and the monthly payments over time in buying a condo unit is then made (see following comparison scenarios).

**(Insert AppK-PartA-C: 3 pre-formatted Excel worksheets)**

## APPENDIX M: Sources of Financing

### Local Programs

The Mayor's Office of Housing (MOH) administers several programs to assist low to moderate-income first time homebuyers. Some programs link first time homebuyers with specific affordable housing units. Others provide financial assistance designed to increase the buying power of first time homebuyers.

#### ***Restricted or Below Market Priced Units (Specific Properties)***

The City has worked to create and sustain its affordable housing stock since the late 1980s resulting in over 1,000 units that can be considered to be below market rate. The units are "deed restricted for a term of 20-50 years and are made available only to households earning less than 120% of median income". The primary programs include the Condo Conversion program, the Inclusionary program and the City Second Loan Program.

- The Condo Conversion program requires a portion of the units converted from apartment rentals to ownership condominiums be made available at prices affordable to households at either 80 or 120% of the San Francisco median income.
- The Inclusionary program requires at least 10% of newly constructed dwellings (with 10 or more units) be priced affordable to moderate income households. Although the pricing and eligibility guidelines vary, the majority of these units are priced at 100% of median income affordability.
- The City Second Loan program also links first time homebuyers with specific properties. The program offers financial assistance to eligible first time homebuyers with a no interest, deferred payment loan for the purchase of units located in specific developments<sup>5</sup>. In lieu of interest, repayment includes the principle plus a shared appreciation in the value of the property at the time of resale. The applicant's combined household income cannot exceed 120% of median income established by HUD.

#### ***Financial Assistance Programs (Non-Specific Properties)***

MOH also administers several programs that provide financial assistance for first time homebuyers. The two key financial assistance programs include the Mortgage Credit Certificate Program (MCC) and the Downpayment Assistance Loan Program (DALP):

- The Mortgage Credit Certificate Program provides assistance for first time homebuyers for the purchase of owner-occupied single family homes, duplexes, townhouses and condominiums. Specifically, it "provides the income eligible buyer with an opportunity to reduce the amount of federal income tax otherwise due by an amount equal to 15% of the mortgage interest payments at a dollar for dollar credit. The remaining 85% can be taken as the usual allowable deduction of the itemized return."<sup>6</sup> The additional tax saving allow first time homebuyers to qualify for a larger mortgage. The MCC program requires participating lenders to take the additional borrowing capacity into account when underwriting mortgages. Participation in "MCC is equivalent to about a 1-1/2 percent reduction in the mortgage interest rate."<sup>7</sup>

There are several requirements for the eligible participant. The eligible participant should be a first time homebuyer who is purchasing the property as a primary resident. The participant should also move into the unit within 60 days of close of escrow. If the participant sells the residence within 9 years of purchase, a recapture tax may be assessed. Additionally, the eligible participant's household income should not exceed specified limits dependent upon the location of a property:

	Non-target area	Target area
<b>1 or 2 person household</b>	\$101,800	\$122,160
<b>3 or more person</b>	\$117,070	\$142,520

<sup>5</sup> San Francisco Mayor's Office of Housing (MOH), "City Second Loan Program" brochure. Note, specified developments include several located in Potrero Hill, Ingleside, Western Addition, Outer Mission, Haight Ashbury, Mission-Soma, and Downtown.

<sup>6</sup> MOH, "First Time Homebuyer Programs," [www.sfgov.org/moh.firsttime.htm](http://www.sfgov.org/moh.firsttime.htm).

<sup>7</sup> MOH, "San Francisco 2000 Consolidated Plan".

household		
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In terms of building eligibility requirements, the property must not exceed the following maximum sales price (note there also can be different limits depending on whether properties are located in "target areas<sup>8</sup>):

	Non-target area	Target area
Existing Home (Resale)	\$ 537,793	\$ 657,303
New Home (Not previously owned)	\$ 554,104	\$ 677,238
Existing Duplex (Existing Only)	\$ 623,921	\$ 762,570

Between 1995 and 2000, the city issued approximately 940 MCCs to first time homebuyers. However, the City's ability and flexibility to allocate funds has decreased in recent years because of reduced funding levels and other goals set by the State. In previous years, for example, the City received approximately \$18 million for the MCC program. Last year, the City received \$9.1 million, which was able to assist 53 homebuyers. In 2002, San Francisco received slightly more at \$12.9 million in funding for the MCC program.

- The Downpayment Assistance Loan Program "assists eligible low and moderate income first time homebuyers with a subsidy of up to \$100,000 or 30% of the purchase price, whatever is less for households below 80% median income and \$50,000 for households between 80-100% of median income." The median income is established by HUD's estimates of metropolitan statistical area median income. HUD estimates that a 4-person household in the San Francisco has a median income of \$86,100 for 2002; this median income is adjusted for different household sizes with household income requirements including all income of persons 18 years or older who will be living in the property<sup>9</sup>. The loan operates as a deferred payment for a 40-year term where repayment is based upon the principal plus a share of the appreciation.

First time homebuyers who have never owned a home as their principal residence can qualify for downpayment loan assistance if they meet the following requirements<sup>10</sup>:

1. Borrower eligibility requirements- household income cannot exceed 100% of the area median income for the San Francisco Primary Metropolitan Statistical Area (PMSA), as established by HUD; household income include all income of persons 18 years or older who will be living in the property.
2. Financing requirements- a borrower must have secured a commitment of a first mortgage from a participating lender to purchase property located in the City of San Francisco and must contribute a minimum of 5% of the purchase prices toward the downpayment of the property (3% of the purchase price must be the borrower's own funds).
3. Owner occupancy requirements- a borrower must occupy the purchased property as his/her principal residence within 60 days after the close of escrow. Properties that have received DALP funding must remain owner-occupied throughout the term of the loan. Also, at the time of funding the borrower's household must be compatible with the property size (so that a one person household can buy a studio or one bedroom unit and a two person household can purchase a unit with two bedrooms or less).
4. Property eligibility- properties purchased must be single family residences in the City of San Francisco including detached single family units, condos, townhouses, and shared cooperative units. Also the maximum sales prices for properties must be as follows:

Unit Size	Maximum Purchase Price Limits
-----------	----------------------------------

<sup>8</sup> MOH, "The Mortgage Credit Certificate Program- For First Time Homebuyers". Please note targeted areas are areas the City has identified to encourage growth of home ownership and development; target areas include: North Beach, North of Market, Western Addition, South of Market, Mission, Bayview/Hunters Point, and Visitacion Valley.

<sup>9</sup> MOH, "2002 Income Limits for Housing Programs," Feb 2002.

<sup>10</sup> MOH, "Downpayment Assistance Loan Program" brochure.



Studio	\$ 250,000
1 bedroom	\$ 300,000
2 bedroom	\$ 375,000
3 bedroom	\$ 410,000
4 or more bedrooms	\$ 445,000

The DALP was funded initially with \$15 million through the Affordable Housing and Home Ownership Bond Program (Proposition A). Over the past five years, a majority of the fund has been allocated; less than \$400,000 remains as of early July, 2002<sup>11</sup>. The number of loans that can be made depends on the size of the downpayment needed for an applicant's purchase; a maximum of \$100,000 can be granted. Previously the program granted between \$30,000-50,000 in downpayment assistance. However, as home sale prices have continued to climb, the downpayment assistance was increased to \$50,000-100,000. To date, 253 loans have been made through DALP.

### Federal Programs

For example, the Federal government has programs administered by the Federal Housing Administration (FHA) that make mortgage credit available to more Americans, including those with low and moderate incomes. Participants who meet FHA Loan credit qualifications may be eligible for a low down payment of 3 percent. Closing costs and fees can also be wrapped into the mortgage. Another program, the FHA's Access 2000 Program, provides zero downpayment loans to qualifying purchasers. Access 2000 does not require the purchaser to be a first time homebuyer, does not have a recapture tax and helps in the purchase of single-family homes and condominiums only. The Access 2000 program assists homebuyers in California and a few counties of Nevada. As an FHA first mortgage the program requires a 3% downpayment, however, Access 2000 provides a 2<sup>nd</sup> mortgage in the amount of 5% of the purchase price; in all the purchaser receives financing for 102% of the sale price. The loan is fully amortized for 20 years and runs at an interest rate of 7.5%. the 5% covers the 3% downpayment and the remaining 2% covers most of the FHA regulated closing costs associated with purchasing a home. The borrower must fall within income limits set for the county of San Francisco or \$72,400 per year. The loan is available through most Federal Housing Administration lenders and through mortgage brokers.

### State Programs

California Housing Finance Authority (CHFA) 100% loans or "CHFAFA" as it is sometimes known, is designed to provide up to 100% of home loan financing to prospective eligible first-time homebuyers. It generally consists of a standard 97% FHA - CHFA fixed-rate 30-year mortgage and a 3% CHFA down payment assistance second mortgage, which is also called a "sleeping" or "silent" second. The second mortgage is offered for 30 years at 3% simple interest. All payments are deferred on this second mortgage until one of the following happens: the CHFA first mortgage becomes due and payable; the first mortgage is paid in full or refinanced; or, the property is sold.

The CHFA 100% Home Loan Program is available to all low and moderate-income homebuyers in all 58 counties in California. In order to qualify for a CHFA loan, certain eligibility requirements must be met. The eligibility requirements include:

- An annual household/family income that does not exceed income limits for the family size and county in which the home is located and must meet credit, income and loan requirements of the CHFA lender and the mortgage insurer
- Property must be owner-occupied for the term of the loan or until sold
- Be a first-time homebuyer, which is defined as a person(s) who has not had an ownership interest in their primary residence during the previous three years. This requirement is waived if property is located in a federally designated target area
- Have sufficient funds available to meet the required down payment - 3-5% plus closing costs. Some restrictions apply to gift funds, and
- Have the legal right to permanently reside in the United States.

<sup>11</sup> Interview. Maggie Davis, Director of Single Family Housing Programs, Mayor's Office of Housing, July, 11, 2002.



CHFA loans are subject to a Federal recapture tax. Recapture is a Federal income tax that borrowers may have to pay if they sell or transfer their CHFA-financed home within 9 years.

### **Private Programs**

Other programs providing financial assistance may be available through private lenders and organizations like Fannie Mae and Freddie Mac. For example, the Fannie Mae (FNMA) Community Lending Programs provide several financing programs for homebuyers. The programs are designed to eliminate the two primary barriers to homeownership for low- and moderate-income people -- lack of down payment funds and qualifying income. As such, some of the key benefits and flexible mortgage and underwriting features include: lower down payment requirements, lower qualifying income, expanded closing-cost assistance, lower cash reserve requirements, and acceptance of nontraditional credit histories. Low and moderate-income borrowers are those borrowers whose income is no greater than 100% of the area median income (AMI) where the home is located. Specially designated high-cost areas and communities targeted for neighborhood revitalization are among the exceptions to this income limit. San Francisco is eligible, as a high-cost area.



(OLA # 024-02)

## LEGISLATIVE ANALYST REPORT

**To:** Members of the Board of Supervisors  
**From:** Adam Van de Water, Office of the Legislative Analyst  
**Date:** October 1, 2002  
**RE:** Biennial Budgeting (File # 021309)

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### SUMMARY AND SCOPE OF REQUEST

Supervisor Maxwell, through the Board of Supervisors, requested that the Office of the Legislative Analyst (OLA) research the potential advantages and disadvantages of enacting a biennial budget, provide a list of local governments that currently enact biennial budgets, and make policy recommendations for the City and County of San Francisco.

### EXECUTIVE SUMMARY

Interest in biennial budget cycles has grown in recent years in response to several factors, including increasing time spent preparing and reviewing budgets and more restrictions on and uncertainty of future revenues. Most governments that have enacted a biennial budget cycle pass two-year spending plans but continue to appropriate funds on an annual basis (a 'rolling' biennial budget). A less common form of the biennial budget is the 'true' biennial budget, which either appropriates funds for two-year time periods or two consecutive but non-transferable time periods.

According to recent surveys, 12 states, nine of the largest 35 U.S. counties, and 25 California cities currently have some form of a rolling biennial budget and an additional nine states, two major counties and 18 California cities enact 'true' biennial budgets.

After discussing the six primary advantages and disadvantages of biennial budget cycles, this report looks at the relevant language contained in the Charter and the Administrative Code governing how it could work in San Francisco. While the City Charter currently requires the Mayor to submit and the Board to approve an annual budget, the Board could enact a non-binding two-year spending plan by ordinance. Additionally, while the Administrative Code contains some provisions requiring long range planning, not all these provisions are currently exercised. The OLA therefore raises seven key issues for the Board's consideration should they wish to pursue the enactment of a biennial budget cycle in San Francisco. These policy considerations provide the foundation for any successful transition to a new budget process and would need to be answered by the Board before enacting a new budget cycle.

## BIENNIAL BUDGETING: AN OVERVIEW

Biennial budgeting has many variants and there are almost as many nuanced forms as there are governments that enact them. Most commonly, governments enact a rolling biennial budget, where the legislative body passes a biennial financial plan but continues to appropriate the funds annually. According to recent surveys<sup>1</sup>, 12 states, nine of the 35 largest U.S. counties, and 25 California cities currently enact rolling biennial budgets (see Appendix A for a list of states, major counties and California cities that enact biennial budgets). The more restrictive, and therefore more rare, 'true' biennial budget passes both a biennial financial plan and a biennial appropriation every two years. In these nine additional states, two major counties and 17 California cities, departmental budgets are appropriated for the full two years with a limited mid-cycle or off-year review to adjust for unforeseen changes in revenues or expenditures.

Interest in biennial budgeting has grown in recent years, due in part to growing time spent preparing and reviewing budget documents, recent attention at the federal level, and local government funding uncertainty as a result of state restrictions on property taxes. Proponents of biennial budget cycles contend that reduced Board time spent preparing, reviewing, and approving annual budgets provides more focused time for improved financial management and departmental oversight while forcing policymakers to make financial decisions over longer timeframes.

It was this experience in Texas that brought the issue to the federal level with the Bush administration and prompted reports by the General Accounting Office, Congressional Budget Office (CBO), Office of Management and Budget, Center on Budget and Policy Priorities, and several congressional committees and advocacy groups. In California, the impetus for cities to adopt multi-year budgets came in 1978 with the passage of Proposition 13, which restricted annual property tax rate increases to one percent and created uncertain funding futures for local governments<sup>2</sup>. With approximately ten percent of all California cities enacting some form of a biennial budget, California now has more cities with biennial budget cycles (43 by recent surveys) than any other state.

Opponents of biennial budget cycles counter that funding uncertainty, coupled with a limited ability to predict future economic conditions as well as the potential for reduced departmental accountability, is exactly why most government agencies continue to have annual budget cycles.

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<sup>1</sup> National Conference of State Legislatures, 1999; 1993 survey by Victoria Runkle, Renton, WA Finance Administrator; California Society of Municipal Finance Officers 6/17/99 Two Year Budget Appropriation Survey; Government Finance Officers Association Budget Awards; September Telephone Interviews.

<sup>2</sup> According to the Government Finance Officers Association, as a partial response to this loss of millions in property tax revenues, California cities developed and adopted multi-year budgets to mitigate the long-term fiscal impact of Proposition 13 and the future loss of property tax revenue.

### ADVANTAGES OF BIENNIAL BUDGETS

Advocates of biennial budgets point to the following six advantages of converting from an annual to a biennial budget cycle:

1. Long range planning – Biennial budgeting can improve long-range and strategic planning, as it requires forecasting expenditures and revenues up to twenty-eight months in advance. This provides longer time horizons to department heads and policymakers as they allocate resources across programs and anticipate future needs. Because the timeline is extended from one year to two, budgeting can be better coordinated with capital improvements, fleet management changes, or other major municipal expenditures. For these reasons, the National Advisory Council on State and Local Budgeting, recommends long-range planning as one of the five essential features of good budgeting<sup>3</sup>.
2. Opportunities for staff redeployment – Biennial budgeting frees some department officials and Board and Mayor's budget staff from annually preparing budget documents, time that could be spent improving financial management, conducting audits, and/or analyzing program effectiveness. The Board could also use the time in mid-cycle budget years to gather information, formulate policy, and test and evaluate programs.
3. Policy emphasis – Biennial budget cycles could move the Board from line-item consideration of the budget to a longer-range, more policy-driven approach. According to the City of Renton, WA Finance Administrator Victoria Runkle, Washington State officials that recently converted to biennial budgeting found that "the legislative bodies focus on the outcomes of the programs, and less on the actual ways the program was managed." However, as CBO Director Dan Crippen points out, this policy-based approach assumes that Board actions can be separated into issues with and without fiscal impacts, which "could be confusing and might create new difficulties."
4. Department/contractor flexibility – Two-year appropriations provide departments and private and not-for-profit contractors with more certainty in funding over the longer 2-year period and, in some cases, can allow them to adjust spending levels across years within this larger two-year window.
5. Improved cross-year comparisons – In the absence of zero-based budgeting, budgeting over two years could make cross-year comparisons and associated policy decisions easier for the Board of Supervisors to do as specific funding allocations would be projected for two years instead of the current one year.

<sup>3</sup> "A good budget process is characterized by several essential features. A good budget process: incorporates a long-term perspective, establishes linkages to broad organizational goals, focuses budget decisions on results and outcomes, involves and promotes effective communication with stakeholders, and provide incentives to government management and employees." P. 3 *Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting*, 1998.

6. Minimal transition issues – Officials in Arizona and Connecticut, the only states that have converted to biennial budgeting in the last 10 years, say that they did not experience significant transition issues or technical difficulties in shifting to biennial budgeting.

### DISADVANTAGES OF BIENNIAL BUDGETS

Opponents of biennial budgets point to the following six disadvantages of converting to a biennial budget cycle:

1. Departmental oversight – Departments and contractors may be less responsive to the Board if their budgets were protected for two years. The absence of annual budgetary reviews may further increase the authority of the Mayor's Office, which is responsible for departmental oversight and program implementation. In Ohio and Connecticut – two states that recently converted to a biennial budget cycle but did not expressly design new oversight functions – oversight did not increase in the off year as some proponents had hoped.
2. State and federal funding uncertainty – According to the Mayor's FY 2002/2003 Proposed Balanced Budget, 20.9%, or \$1.03 billion, of the City and County of San Francisco's FY2002-2003 \$4.9 billion budget comes from state, federal and other governmental sources. As these entities operate on an annual budget cycle, it is especially difficult for counties (which typically receive a higher percentage of state and federal funding than do cities<sup>4</sup>) to predict these funding levels as much as 28 months in advance. Further complicating matters is the fact that the federal fiscal year begins October 1, three months after the Charter requires the City and County to pass its budget.
3. Unforeseen events – The limited ability to project future economic and/or programmatic conditions and the inevitability of unforeseen events may lead to a budget process that is biennial in name only. According to the Controller's Office, biennial budgets would only increase the risk of forecasting future revenue sources – such as hotel, property and sales taxes, a risk already present in the creation of annual budgets. A review of biennial budgets by the Government Finance Officer's Association, found that biennial budgets assume stability and therefore work best in times of economic growth or certainty. Most California cities that currently operate on biennial budget cycles still have annual appropriation cycles for this reason and nearly 90 percent of all California cities continue to budget on an annual basis.
4. Time savings – Depending on the strength of restrictions or willingness to avoid making significant technical or policy changes in the off-year, biennial budgeting may not lead to appreciable time savings for the Mayor, Board, or legislative staff. While survey evidence from finance directors in smaller cities suggests that it takes no more time and frequently takes less time to create a biennial budget, there is no guarantee that converting to a biennial budget cycle will reduce the burden on elected officials or staff. For example, even in the

<sup>4</sup> See [http://www.lao.ca.gov/2000\\_reports/calfacts/2000\\_calfacts\\_state-local.html](http://www.lao.ca.gov/2000_reports/calfacts/2000_calfacts_state-local.html).



absence of an annual budget process, departments must still forecast expenditures and maintain annual budgets to manage cash-flow, the Board must still review departmental performances, and the Controller's Office must still complete the Comprehensive Annual Financial Report, the 6-, 9-, and 36-month budget projections and all state requirements.

5. **Workload** – Biennial budgets may only serve to raise the stakes of budget negotiations – and hence the stress involved and how long they take – during the first of the two years as well as lead to less involvement by the Board in off-years.
6. **Software and Accounting Changes** – Converting to a biennial budget may require changes to the City and County's budgeting and accounting practices, adding potential additional costs to the City and County.

### **BIENNIAL BUDGETS AND SAN FRANCISCO LAW**

#### **Annual Budgets Required by Charter**

The city charter currently mandates the submission of an annual budget and all appropriation ordinances and provides the Board of Supervisors with the authority to require the creation of non-binding multi-year budget plans. Article IX, Section 9.101 of the San Francisco Charter requires the Mayor to "submit to the Board of Supervisors each year an annual proposed budget."

While appropriations must still be made annually, Section 9.101 further states that "the Board of Supervisors by ordinance may require multi-year budget plans and other budget planning strategies to be performed by the several departments and offices of the City and County." The Board of Supervisors could therefore, by ordinance, change to a rolling biennial budget cycle and would need to pass a voter-approved charter amendment to change to a true biennial budget cycle.

#### **Current Long Range Planning Provisions Are Limited**

San Francisco currently has three provisions in place to project revenue and expenditure levels into the future and a fourth will become effective beginning in 2003. While these provisions are meant to assist the Mayor and the Board with their long-range funding decisions, only one – the joint report issued by the Mayor's Budget Office, Controller, and Budget Analyst – is currently presented to the Board to help guide their multi-year decision-making. Full implementation of the authority granted in the following sections could obviate the need for and provide longer-term projections than enactment of a biennial budget.

##### ***1. Joint Report***

First, Section 3.6 of the San Francisco Administrative Code provides that the Mayor, Budget Analyst and Controller jointly prepare a three-year estimated summary budget for the City and County, providing a snapshot of the City's financial condition over the next three years.<sup>5</sup> This

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<sup>5</sup> In 2002, the Mayor's Budget Office, Budget Analyst, and Controller issued their three-year projection for fiscal years 2002/2003 through 2004/2005 to the Mayor and the Board on March 14 and presented their findings to the City Hall • 1 Dr. Carlton B. Goodlett Place, Room 270 • San Francisco, California 94102-4689  
Telephone (415) 554-5184 • Fax (415) 554-7786 • TDD (415) 554-5227



approximately 10-page report summarizes preliminary projections of future surpluses and shortfalls and is currently the only financial projection available to assist the Board in making multi-year funding decisions.<sup>6</sup> While an invaluable tool for estimating the impacts of major decisions and changes in the current year on conditions in subsequent years, the joint report is in no way intended to express the Mayor or Board's funding priorities and cannot be used to project spending for individual departments or programs.

## 2. Four Year Projections

Second, Section 9.101 of the San Francisco Charter requires the Mayor's annual proposed balanced budget to include a summary containing, "a discussion of trends and projections of revenues and expenditures of the City and County for the subsequent four years." The Mayor's Proposed Budget 2002-2003 issued on June 1 contains cursory mention of trends and projections but no funding estimates for any year beyond the budget year<sup>7</sup>. Rather than projecting these figures for the subsequent four years, more often they summarize these figures for the prior three years.

## 3. Three-Year Forward Plans

Third, Section 3.5(b) of the San Francisco Administrative Code requires that, *Commencing with fiscal year 1998-99, each department, board, commission and agency shall develop and annually review a strategic plan which contains at least a three-year forward plan to reflect policy outcomes from the operations of the respective department, board, commission, or agency consistent with the then-approved budget.*

While it is unknown which of the approximately 60 City and County departments currently develop these forward plans, no department formally presents them to the Board.

## 4. Efficiency Plans

Finally, the Performance and Review Ordinance of 1999 added Section 88.4 to the San Francisco Administrative Code, which states,

*Beginning 2003 and each year thereafter, the head of each department shall prepare and submit to the Mayor by October 1<sup>st</sup> and to the Board of Supervisors by November 1<sup>st</sup> a departmental efficiency plan. Each plan shall include a customer service element, a strategic planning element, an annual performance element, and a performance evaluation element for the previous fiscal year, as set forth more fully below [see Sec. 88.4 for more details]. The plan shall cover a period of not less than three years forward from the fiscal year in which it is submitted.*

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five-member Budget Committee March 19. At the request of Budget Committee Chair Maxwell and Vice-Chair Peskin, a preliminary outlook for 2003/2004 was subsequently presented to the Mayor and Board on August 13, 2002, to reflect known changes since the March report.

<sup>6</sup> The Controller's six and nine-month reports project financial conditions for the start of the next fiscal year but do not project conditions any further into the future.

<sup>7</sup> The budget year, as opposed to the current year, is the next fiscal year for which the Mayor and the Board propose and appropriate funds respectively.

In 2000 and 2001, a pilot group of departments (including the Board of Supervisors, Department of Public Works, Recreation and Parks Department, Elections Department and a few others) began to develop departmental efficiency plans with mixed success. While some elements of these efficiency plans are already practiced citywide (for example, the inclusion of performance measures), many of the details of these efficiency plans will need to be developed for the first time over the course of the next fourteen months. The long-term success of these efficiency plans will depend on each department's acceptance of them and the support they receive in developing them.

### IMPLEMENTATION CONSIDERATIONS FOR SAN FRANCISCO

Should the Board of Supervisors wish to consider making the transition to a biennial budget in San Francisco, they must first address the following considerations in greater detail. These questions, which are presented here in no particular order, are critical to the long-term success of any multi-year budget in San Francisco.

- Level of departmental oversight – How accountable and in what way should departments be to the Board of Supervisors? Will guaranteeing two years of funding to departments erode their accountability and responsiveness to the Board? Is the same true for a rolling biennial budget where funds are still appropriated annually? Should funding be connected to program performance or another measure of accountability?
- Political authority and organizational structure – Does the often-adversarial nature of San Francisco's executive/legislative relationship make enacting a biennial budget cycle in San Francisco necessarily more difficult? Does the unique nature of San Francisco's organizational structure (with a strong Mayor and county Board of Supervisors) present difficulties above and beyond those faced by a City Manager or County Chief Administrative Officer form of government? Are there compromises – such as the Board relinquishing some line-item managerial control of department budgets in return for increased program performance and accountability from departments – that could be worked out to improve the nature of this relationship? Would an initial budget retreat between the Mayor and the Board, as practiced in numerous other local governments, prove helpful?
- Role of Key Budget Players – How could the Board utilize the Controller's Office, Budget Analyst's Office, or Legislative Analyst's Office (OLA) more efficiently to advance the long-range planning goals contained in a biennial budget cycle? Should the Budget Analyst continue to look at line-item details or is there a need to amend their contract to look at longer term and/or broader issues? Does the Board plan to change the add-back process and how would this annual process work with a biennial budget?
- True Biennial Budget – If the Board wished to consider enacting a true biennial budget, how feasible would it be to amend the charter? What restrictions, if any, would the Board place on off-year amendments?

- Rolling Biennial Budget – If the Board wished to consider enacting a rolling biennial budget, how binding, if at all, would the goals and projections contained in the two-year financial plan be to passage of the Annual Appropriation and Annual Salary Ordinances? What process would govern the mid-cycle review? How would this process differ from fully implementing those long-range provisions currently contained in the Charter and Administrative Code?
- Transition – How would the Board transition to a biennial budget cycle? Would the first year of the biennial cycle impact the entire budget and all departments or are there reasons to implement gradually and/or only for selected departments?
- Timing – How would a biennial budget be best coordinated with election cycles, union Memorandum of Understanding negotiations, capital projects and utility or rate tax changes? One possibility (sketched out in Appendix B in calendar form and based on the City of Oakland's model) would make next fiscal year (2003-2004) a transitional year, with the first year of the biennial cycle beginning the following year (2004-2005) after the election of a new mayor and as many as six new supervisors.

### CONCLUSION AND RECOMMENDATION

Enacting a biennial budget cycle in San Francisco is a policy matter for the Board of Supervisors.

If created carefully, biennial budgets can act as the catalyst to move the Board away from line-item consideration of the budget and toward increased long-range planning while decreasing the annual time spent reviewing budget documents. However, there is nothing inherent in biennial budgeting that assures this transition will take place. Successful implementation of a biennial budget requires careful consideration of many related elements (raised as unanswered questions in the prior section) as well as widespread commitment to the new goals and processes it creates. Unless the Board, Mayor and all departments can clearly foresee the advantages of transitioning to a biennial budget and have the appropriate resources to work toward that goal, the creation of a biennial budget in San Francisco will only establish new requirements for finance managers that do not advance the policy goals of long-range strategic planning.

Should the Board of Supervisors wish to discuss enacting a biennial budget in San Francisco, the Office of the Legislative Analyst recommends calling a hearing to discuss the issue in more detail with key budget players such as the Mayor's Budget Office, the Office of the Legislative Analyst, the Budget Analyst's Office, members of the Board of Supervisors and representatives from several city departments.

Based on the preliminary research contained above, the OLA finds that the easiest form of a biennial budget to implement and the most appropriate for the City and County is the rolling biennial budget beginning in fiscal year 2004-2005. As they still appropriate funds annually, rolling biennial budgets provide departments and city contractors with increased future funding

stability while maintaining their annual accountability to the Board. The Board could transition to a rolling biennial budget cycle through passage of an ordinance and adoption of a new budget process. If based on the process currently in place in Oakland, selected key budget-related activities might roughly follow the calendar provided in Appendix B.

## **Appendix A: States, Major U.S. Counties and California Cities that Enact Biennial Budgets**

**IMPORTANT NOTE:** Within the categories 'rolling' and 'true' listed above, there is significant variety. Some cities with rolling biennial budgets have non-binding two-year spending plans and continue to appropriate funds annually while some cities with true biennial budgets appropriate funds biennially but make budget adjustments as frequently as every six months. The important distinction made here is that, with the exception of annual or semi-annual budget adjustments, funds are largely appropriated either every year or every other year.

### Nine States Enact 'True' Biennial Budgets\*

- |                  |                   |               |
|------------------|-------------------|---------------|
| 1. Indiana       | 4. North Carolina | 7. Texas      |
| 2. Minnesota     | 5. North Dakota   | 8. Washington |
| 3. New Hampshire | 6. Oregon         | 9. Wyoming    |

### Twelve States Enact 'Rolling' Biennial Budgets

- |                |             |               |
|----------------|-------------|---------------|
| 1. Arizona     | 5. Kentucky | 9. Nevada     |
| 2. Arkansas    | 6. Maine    | 10. Ohio      |
| 3. Connecticut | 7. Montana  | 11. Virginia  |
| 4. Hawaii      | 8. Nebraska | 12. Wisconsin |

(Source: National Conference of State Legislatures, 1999)

### Two of the Largest 35 U.S. Counties Enact 'True' Biennial Budgets\*

- |                       |                      |
|-----------------------|----------------------|
| 1. Oakland County, MI | 2. Orange County, CA |
|-----------------------|----------------------|

### Five of the Largest 35 U.S. Counties Enact 'Rolling' Biennial Budgets

- |                        |                         |                      |
|------------------------|-------------------------|----------------------|
| 1. Cook County, IL     | 3. San Diego County, CA | 5. Dallas County, TX |
| 2. Cuyahoga County, OH | 4. King County, WA      |                      |

(Source: 1993 survey by Victoria Runkle, Renton, WA Finance Administrator)

18 California Cities Enact 'True' Biennial Budgets\*

- |               |                 |                 |
|---------------|-----------------|-----------------|
| 1. Barstow    | 7. Highland     | 13. Pleasanton  |
| 2. Berkeley   | 8. Livermore    | 14. San Carlos  |
| 3. Claremont  | 9. Lodi         | 15. Santa Maria |
| 4. El Centro  | 10. Los Altos   | 16. Selma       |
| 5. Emeryville | 11. Oakland     | 17. Watsonville |
| 6. Hemet      | 12. Paso Robles | 18. Yorba Linda |

25 California Cities Enact 'Rolling' Biennial Budgets

- |              |                          |                     |
|--------------|--------------------------|---------------------|
| 1. Alameda   | 10. Huntington Beach     | 19. San Luis Obispo |
| 2. Calabasas | 11. Laguna Hills         | 20. San Rafael      |
| 3. Colton    | 12. Mission Viejo        | 21. Santa Barbara   |
| 4. Daly City | 13. Moreno Valley        | 22. Santa Rosa      |
| 5. Danville  | 14. Palo Alto            | 23. Santee          |
| 6. Del Mar   | 15. Palos Verdes Estates | 24. Sunnyvale       |
| 7. Fullerton | 16. Rancho Palos Verdes  | 25. West Hollywood  |
| 8. Glendale  | 17. Redding              |                     |
| 9. Hayward   | 18. Redwood City         |                     |

*(Sources: California Society of Municipal Finance Officers 6/17/99 Two Year Budget Appropriation Survey;  
Government Finance Officers Association Budget Awards; September OLA Telephone Interviews)*

\* - Many of these cities have annual spending plans for cash flow management purposes.



## Appendix B: Potential Rolling Biennial Budget Calendar?

### Selected Key Activities Based on Oakland, CA

Next Fiscal Year =  
Transition Year (FY 03-04)

July - Aug	Sept - Oct	Nov - Dec	Jan - Feb	Mar - April	May - June
------------	------------	-----------	-----------	-------------	------------

Mayor/Board

Pass FY03-04  
Budget, AAO, ASO

Budget Retreat:  
Review Perf. Measures & Objectives

Mayor's Proposed  
Balanced Budget  
Submittal; Budget  
Deliberations

Staff

Review Details/ Procedures of Transition  
to Biennial Budget

Budget Support

Public

Public Participation  
Groups or Surveys

Election: Mayor, 6  
Supervisors

Public participation

1st Yr. Of Biennial (FY 04-05)

July - Aug	Sept - Oct	Nov - Dec	Jan - Feb	Mar - April	May - June
------------	------------	-----------	-----------	-------------	------------

Mayor/Board

Pass FY04-05/05-06  
Budget, FY04-05  
AAO, ASO

Receive Proposed  
2nd year of  
Approved FY04-  
05/05-06 Budget  
Mayor's Proposed  
Balanced Budget  
Submittal; Budget  
Deliberations

Staff

Supplemental  
Budget Instructions  
to Depts

Audits, Review of Programs,  
Financial Mgmt

Budget Support

Public

Public Participation  
Groups or Surveys

Public participation

2nd Yr. Of Biennial (FY 05-06)

July - Aug	Sept - Oct	Nov - Dec	Jan - Feb	Mar - April	May - June
------------	------------	-----------	-----------	-------------	------------

Mayor/Board

Pass FY05-06 AAO,  
ASO

Budget Retreat:  
Review Perf. Measures & Objectives

Mayor's Proposed  
Balanced Budget  
Submittal; Budget  
Deliberations

Staff

Review Details/ Procedures of  
Biennial Budget

Budget Instructions  
to Depts

Budget Support

Public

Public Participation  
Groups or Surveys

Public participation



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## **LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Jesse Martinez  
DATE: October 8, 2002  
SUBJECT: Public Works Call Center (File # 021047)

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### **SUMMARY OF REQUESTED ACTION**

A motion (introduced by Supervisor Leno) requesting the Office of the Legislative Analyst (OLA) to research the City of New Orleans Public Works Call Center Service Request program to allow city residents to report potholes, abandoned vehicles, traffic light outages, sign damaged needs and repairs and research the feasibility of a joint online reporting system for the San Francisco Department of Public Works and Department of Parking and Traffic.

### **EXECUTIVE SUMMARY**

Our office conducted an analysis of how other jurisdictions determine and implement their Call Centers. Specifically, we looked at 4 jurisdictions: New Orleans, Chicago, Baltimore, and, San Jose. We discovered that all the jurisdictions surveyed had center start up costs from \$313, 000 in New Orleans, to \$5 million in Chicago. The average age of these centers is 16 months. Nonetheless, they all identified cost savings and recognized customer service improvements since implementing their call centers.

### **BACKGROUND and PRACTICE**

The San Francisco Board of Supervisors has been confronting the issue of its response capability to emergency and non-emergency situations for some time<sup>1</sup>. Indeed, the Board of Supervisors examined the possibility of developing a 'Good Neighbor' policy for the City and County of San Francisco in response to citizens' needs during and following any emergency or disaster, "as well as to guide the City in the conduct of its everyday, non-emergency operations."

<sup>1</sup> Board of Supervisors, City and County of San Francisco, April 1990, file 270-90-5.3, Resolution No. 285-90  
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Telephone (415) 554-5184 • Fax (415) 554-7786 • TDD (415) 554-5227

The issues have varied from providing a three-second-response time for emergency phone calls and a 45-second response time for non-emergency phone calls. These concerns continued into 1998, when non-emergency services (311 system) were examined. Hearings were held by the Board to consider cost and effectiveness of 311 non-emergency services in San Francisco<sup>2</sup>.

Recently, California Governor Davis signed into law a bill sponsored by Assemblyman Hertzberg requiring local public safety agencies to maintain, in addition to a "911" emergency telephone number, a separate number for nonemergency calls. It authorizes the Division of Telecommunications of the Department of General Services to, among other things, aid local public agencies in the formulation of concepts, methods, and procedures that will improve the operation of systems that will increase cooperation among public agencies<sup>3</sup>.

In addition, the City's Emergency Communications Department (ECD) and Department of Telecommunications and Information Services (DTIS), recently prepared a proposal initiating the process to examine the feasibility of improving customer services and emergency services<sup>4</sup>.

Accordingly, this proposal indicated that currently the City does not operate a single point-of-communication for customers requesting non-emergency services and information. Indeed, the City uses a decentralized approach with approximately sixty-three departments using one or more general information telephone numbers. Even though DTIS sustains the City's official website and staffs the main City telephone number, they found that callers are often frustrated with this decentralized approach. For instance, they note that it is not unusual for the customer to be transferred multiple times without receiving assistance.

The proposal also states that this decentralized approach inhibits the City's ability to establish a San Francisco enterprise view of customer interactions, implement citizen response standards, optimize city-wide call center resources and evaluate call taker performances. They also established that approximately 71% of calls received by 9-1-1 Public Safety Operators are non-emergency in nature. Examples cited include citizens requesting general information or reporting non-urgent police and fire calls such as potholes, abandoned cars and traffic issues. The 9-1-1 Public Safety Dispatcher personnel generally handle the calls directly or refer the caller to the appropriate agencies or resource. It is apparent to ECD and DTIS that this high percentage of non-emergency communications diverts resources and creates time delays from priority activities. These departments believe that since September 11th, local governments are placing greater focus on public safety and customer service.

According to these experts, this is an opportune time to implement available technology to improve customer service and emergency services as well as setting a standard for other local governments to follow.

The City has yet to establish a back up for the 9-1-1 Combined Emergency Communications Center in the event the current facility becomes unusable for an extended period of time.

<sup>2</sup> File 98-0040, Board of Supervisors, City and County of San Francisco.

<sup>3</sup> AB 669, Hertzberg signed into law by the California Governor on September 20, 2002.

<sup>4</sup> "City and County of San Francisco, Government Service Center, 311 and Customer Relationship Management proposal," March 25, 2002, ECD and DTIS.

The City has a decentralized model for customer service but has consolidated all 9-1-1 and emergency communications services. In addition to 9-1-1, according to ECD and DTIS, approximately sixty-three (63) departments have one or more general information telephone numbers. Additionally, the proposal very clearly points out that the City's official website lists 140 different "offices" with seventy-seven (77) general information numbers operating Monday through Friday, 8:00 am to 5:00 pm; twenty-seven (27) of which operate twenty-four hours a day; and approximately thirty-two (32) teletype lines.

### ANALYSIS

OLA looked at the following jurisdictions and their respective programs (See Chart I). Generally, we found that the incentive for instituting call centers was a belief that their current systems of customer service were insufficient and ultimately costly. For instance, Chicago felt that up to its change, their software and systems were cost inefficient and simply not serving the public properly and adequately. In addition, all the jurisdictions believe that the decentralization of systems was cost-ineffective as well.

All the jurisdictions surveyed reported that the call center was a straightforward manner of reflecting a managerial philosophy of improving customer service and accountability. They did report that subsequent to instituting this centralized notion, problems did arise. Most notable was resistance by many department unwilling to "give up" their perceived notion of power and control. The individual comments are below.

#### **BALTIMORE**

Baltimore implemented a 311 system in approximately June 2001 with a start up cost of \$ 3 million, including technology, using municipal general funds.

- Uses the system for general city-wide 'accountability.'
- The city experienced a dramatic drop, nearly one-third, in non-emergency calls to the 9-1-1 system
- Baltimore also experienced a reduction in the number of emergency dispatchers needed to staff the 9-1-1 function and improved 9-1-1 handling resulting in quicker response times.

Additionally, after implementing 311, Baltimore experienced:

- 78% decrease in callers getting busy signals;
- 67% reduction in average answer time;
- 35% reduction in average abandoned time;
- 82% reduction in calls receiving a recording; and
- 17% decrease in times operators are busy on calls.

#### **CHICAGO**

In May 1999, Chicago commenced planning and coordinating their 311 Call Center at a start up of approximately \$5 million from municipal resources.

- Chicago created its 311 Call Center by relocating 300 employees from various departments who already preformed call center type functions, combining them into a single call center facility.
- Response time to service requests was a major focus in Chicago. With the new 311 Call Center, customer requests must be acknowledged or responded within two and a half hours, which allows for an opportunity to measure results and improve service delivery.
- Chicago also has a Web interface for creating service requests that are handled through the online service request system that supports their 311 Call Center.

## **SAN JOSE**

The city's efforts in instituting a 311 call center are relatively new and close to 1 year old. Initial costs were about \$1.2 million coming from reallocated municipal funds. Unfortunately, since the program is considered new, measurement of success is simply too soon.

## **NEW ORLEANS**

The call center was first conceived in 1996 with initial structuring commencing in the Spring of 2000 and with a start up cost of \$313, 000, excluding equipment or on-line development.

## **CONCLUSION**

Our research shows that all the jurisdictions examined were prompted to change old systems of customer service and to institute centralized call centers by the managerial philosophy of improving customer service and enhancing city accountability. In addition, even though all the jurisdictions are in their early years of having installed the centers (an average of 16 months), all reported savings to the their respective municipalities.

In San Francisco, we found that efforts have commenced to explore the feasibility of installing a centralized call center. City does not operate a single point-of-communication for customers requesting non-emergency services and information. Indeed, the City uses a decentralized approach with approximately sixty-three departments using one or more general information telephone numbers.

### ***Recommendations***

- The Board should examine the proposal prepared by the ECD and DTIS to review the feasibility of instituting a call center. Specifically, to review their suggestions on conducting a study assessing requests for services to the City.
- Find ways to assist ECD and DTIS in supporting their efforts to improve customer service and City accountability and explore funding possibilities for a call center.

**TABLE I**  
**CALL CENTER SURVEY**

QUESTION	NEW ORLEANS	CHICAGO	BALTIMORE	SAN JOSE
1. Why did you decide on a Call Center?	Customer service was deemed insufficient.	Outdated software and decentralization of service request system was inefficient.	Had no accurate way of responding and tracking service requests.	Based upon the recorded customer comments, the system was found wanting.
2. Have you had successes? What kinds of performance indices are used?	Improved customer service; we use the number of service requests, number of work orders, and status of work.	Successes: Dept. of Sewers reduce response time by 83%; Dept of Streets saved 100s of worker hours by minimizing service duplication; auto Pound inventory reduced due to improved tracking. Indices: number of service requests and response times.	Program has saved "millions of dollars."  Indices: response time, answer time, operational performance.	Started in 2001, initial customer comments are 'favorable.'  Measurement indices: 'abandonment' rates and percentage of calls answered within 30-seconds.
3. What are the problems?	Underutilization by customers; Work order status cannot be accessed online; not many city agencies using the call center.	Resistance by departments to a transparent system and technological data interdepartmental conversions.	Human resources-identifying professional customer service personnel and redeployment.	Mainly internal. Most city departments are finding this new centralized routine difficult.
4. Has there been a decrease in complaints due the use of the Call Center?	No	Not sure.	There's been an increase due to promotion of an improved service and the public's expectations.	Unable to measure this at this stage.
5. Managerial philosophy?	Improve customer service by making government more accessible.	Leveraging city services efficiently.	Mayoral priority in improved city efficiency for the residents.	Enhance customer service.
6. Has this been 'oversold' as a customer service tool?	No	No	Only if not used for city "accountability."	No



7. How many personnel are needed?	12 FTE	78 FTE	45 FTE	13 FTE
8. How best adopted to meet the needs?	Eliminated the duplication of service requests by centralizing complaints.	Improved customer service and decreased costs in increasing response time.	Increase efficient customer service and city accountability.	Increase efficient customer service.
9. What was the approximate timetable for implementation?	The Call Center was first conceived in 1996. Initial structuring and work. Began in Spring 2000 and continued through December 2000. The Call Center became fully operational and open to the public in February 2001.	Approximately 1 to 1 1/2 years of planning and coordination, starting in May 1999.	About 15 months.	About 1-year.
10. What are the real costs of start-up and type of funding?	For start-up, \$313,000, excluding equipment or online development.	Approximately \$5 million with funding from municipal resources.	\$ 3 million for technology with an annual recurring of \$4 million including labor; funding from the general fund.	\$250,000 workstations/cubes - 9; \$250,000 hardware and software - database tracking system; \$200,000 telephone system; \$500,000+ on staffing - biggest cost to 24 hour operation is employees due to shifts, leave, coverage; \$50,000 - initial training. Type of funding: reallocated funds.



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## LEGISLATIVE ANALYST REPORT

To: Members of the Board of Supervisors  
From: Adam Van de Water, Office of the Legislative Analyst  
Date: October 31, 2002

RE: 2000 Census Data by Supervisorial District (follow-up to File #: 012214)

### SUMMARY AND SCOPE OF REQUEST

Supervisor Sandoval, through the Board, requested that the Office of the Legislative Analyst (OLA) analyze 2000 Census data for San Francisco as a whole as well as by supervisorial district. As the U.S. Census Bureau had only released information at the county level at the time, the OLA issued a report on February 26, 2002 summarizing that data.

The Census Bureau released data at the sub-county level August 27, 2002 allowing for approximate comparisons between supervisorial districts. This report is therefore issued as a follow-up to the February report and summarizes available data from the short and long-form of the 2000 Census by supervisorial district.

### EXPLANATION OF DATA

Title 13, United States Code, Section 9 prevents the Census Bureau from publishing results in which an individual's data can be identified. To ensure this, the Census Bureau only provides sample data (social and economic questions on the long form sent to approximately 1-in-6 households) down to the census tract level and some data to the block group level<sup>1</sup>. For consistency across all data categories, the data discussed and presented here is all derived from census tracts which, with the exception of District 4, do not exactly correspond to supervisorial district boundaries.

The OLA used Geographic Information Systems (GIS) information provided by the Planning Department to map county census tracts to recently redistricted supervisorial boundaries. Census tracts wholly contained in or geographically centered in<sup>2</sup> one district are included in that district's totals (see attached map Appendix B for the overlay of census tracts and supervisorial district boundaries). While the data presented here may marginally over- or under-represent true district values, the OLA estimates that the overall margin of error in all cases is less than ten percent.

<sup>1</sup> U.S. Census Bureau subdivisions of County data include, in increasing order of specificity: county subdivisions, places, census tracts, block groups, and blocks. San Francisco has 177 census tracts each containing approximately 4,500 people.

<sup>2</sup> This was relevant for the 23 census tracts (of a total of 177) in San Francisco that cross district boundaries.

All data was collected in the spring of 2000 and some questions (such as income or commute behavior for most recent calendar year) reflect information from 1999. The data therefore does not reflect any socioeconomic changes since that time.

Finally, all data provided by the Census Bureau is subject to sampling and non-sampling error which may bias the final results. This could include variations between the sample and the true population (sampling error) or difficulties understanding or processing the forms (non-sampling error).

### SUMMARY OF RESULTS

#### **Gender, Race & Ethnicity**

San Francisco has narrowly more men than women (51% to 49%), driven largely by the gender gaps in Districts Six (60% male) and Eight (57% male).

The highest percentage of whites live in Districts Two, Eight, and Five; Asians in districts Four, Three, and Eleven; African Americans in Districts Ten, Five, and Six; and Latinos in Districts Nine, Eleven, and Six. District Ten qualifies as the most racially diverse district in the city. See Table 1 below.

*NOTE:* The option "Hispanic or Latino" on the census form is an ethnic identity and not a race and is therefore calculated separately from questions of racial heritage. The conflation of race and ethnicity may explain why the percentage of respondents who marked "Some Other Race" (see Appendix A) corresponds closely with the percentage of Hispanic or Latino in each district.

Table 1: Race and Ethnicity, Percentage and Rank by District

	D1	D2	D3	D4	D5	D6	D7	D8	D9	D10	D11
<b>Race</b>											
White	49% (5)	81% (1)	46% (7)	40% (9)	60% (3)	48% (6)	57% (4)	76% (2)	44% (8)	26% (11)	26% (10)
Asian	43% (4)	13% (10)	47% (2)	53% (1)	17% (9)	25% (7)	32% (5)	9% (11)	23% (8)	30% (6)	46% (3)
Black, African American	2% (8)	2% (10)	2% (9)	1% (11)	16% (2)	10% (3)	4% (7)	5% (5)	4% (6)	29% (1)	9% (4)
<b>Ethnicity</b>											
Hispanic or Latino	5% (8)	4% (11)	4% (10)	5% (9)	7% (7)	22% (3)	8% (6)	13% (5)	43% (1)	19% (4)	26% (2)

#### **Citizenship and Language**

District Eleven is the only district with a majority of foreign-born residents (52%). Based on race and language statistics, the majority of these residents are of Asian descent.

The greatest language barriers appear to be in the Asian communities in Districts Three and Six where 58% and 39% respectively of Asian/Pacific Islander speakers state that they speak English "Not Well" or "Not at All."

## Households

The highest home ownership rates occur in the southernmost districts (Districts Eleven, Seven, Four, and Ten) while the lowest home ownership rates occur in the more densely developed northeastern districts (Districts Six, Three, and Five). See Table 2 below.

With the exception of North Beach and Chinatown, the number of households with children and/or seniors largely coincides with home ownership rates. Districts Ten (41%) and Eleven (40%) have the most households with kids and Districts Three (28%), Four (34%), and Seven (31%) have the most households with residents 65 years and over.

Table 2: Home Ownership, Children and Elderly, Percentage and Rank by District

	D1	D2	D3	D4	D5	D6	D7	D8	D9	D10	D11
Home Ownership Rate	35% (6)	27% (8)	13% (10)	60% (3)	19% (9)	10% (11)	61% (2)	34% (7)	43% (5)	51% (4)	70% (1)
Households w/ Children Under 18	21% (6)	10% (10)	10% (11)	28% (4)	12% (7)	12% (8)	25% (5)	11% (9)	32% (3)	41% (1)	40% (2)
Households w/ Seniors 65 or Over	26% (5)	18% (10)	28% (4)	34% (2)	19% (9)	19% (8)	31% (3)	13% (11)	24% (7)	26% (6)	36% (1)

## Income & Poverty

District Two has the highest per capita income at \$75,877 and the fewest number of people below the federal poverty level<sup>3</sup> at 5%. Conversely, District Eleven has the lowest per capita income at \$19,176 (due in part to the high number of households with children, 40%, and elderly, 36%) and District Six has the highest number of people living below the federal poverty level at 23%. See Table 3 below as well as Appendix A for a breakdown of household income by \$25,000 increments.

**NOTE:** While annually adjusted for inflation, the U.S. Census Bureau's poverty thresholds do not adjust for cost of living by geographical area. San Francisco's comparatively low percentage of individuals and families living below the poverty threshold likely reflects this fact.

San Francisco has a high number of 'working poor' who do not fall below the federal poverty threshold but, due largely to the high costs of living, by all other standards are quite poor. For instance, the Public Policy Institute of California notes that while the Census poverty threshold for a family of four in 2000 is \$17,463, HUD estimates San Francisco fair market two-bedroom rent at \$16,344 annually<sup>4</sup>. In order to meet federal goals for housing to account for no more than one-third of a household's income, a San Francisco family of four would need to earn \$49,527, or 2.83 times the federal poverty threshold.

<sup>3</sup> The weighted average poverty threshold (what is often called the federal poverty level) for a single individual is \$8,794.

<sup>4</sup> See <http://www.ppic.org/facts/poverty/oct01.pdf>. For more information on the Census poverty thresholds, see [www.census.gov/hhes/www/poverty.html](http://www.census.gov/hhes/www/poverty.html)

Table 3: Per Capita Income and Rank by District

	D1	D2	D3	D4	D5	D6	D7	D8	D9	D10	D11
Per Capita Income (\$)	31,594 (6)	75,877 (1)	37,597 (4)	26,336 (7)	36,248 (5)	24,751 (8)	39,829 (3)	49,392 (2)	21,423 (10)	21,789 (9)	19,176 (11)

**Gross Rent**

On average, rents appear lowest in Districts Six, Ten and Three to the west and highest in Districts Two, Seven, Four and Eight. See Appendix A for a breakdown of gross rent by \$300 increments.

NOTE: Depending on the tenure of renters, rent control may undervalue the current market rate for some rental units.

**Highest Educational Attainment**

The highest number of residents with postgraduate degrees occur in Districts Two (29%), Seven (24%), and Five (20%).

The majority of residents in Districts Eleven (71%), Ten (71%), Nine (65%), Eight (62%), Six (62%), Four (54%), and Three (53%) have earned less than a Bachelor's or Associate degree.

**Transportation to Work**

Driving alone continues to be the primary mode of travel to work for all Districts other than District Three, which has the highest percentage of residents who walk to work and one of the highest bus riderships.

Not surprisingly, BART and MUNI ridership is highest along existing lines (Districts Eight, Seven, Four, Nine and Eleven), walking is highest near major employment centers where parking is limited (Districts Three and Six), and driving is highest in more residential neighborhoods where parking is easier (Districts Seven, Four, Ten and Eleven).



# Appendix A: 2000 Census Data by Census Tract Mapped to Supervisorial District

**Important Note:** Social and economic data are not released by the Census Bureau at the block level. All figures presented here are based on census tracts which do not map perfectly to Supervisorial Districts. Those wholly contained or geographically centered in a particular District are included in that District's total.

Population, Gender		District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	SF Total
Total Population		71,799	65,339	71,034	70,672	64,505	73,152	69,045	74,362	65,409	76,752	74,664	776,733
% Male		47%	47%	50%	49%	50%	60%	48%	57%	51%	49%	49%	51%
% Female		53%	53%	50%	51%	50%	40%	52%	43%	49%	51%	51%	49%
Race													
White		49%	81%	46%	40%	60%	48%	57%	76%	44%	23%	26%	50%
Asian		43%	13%	47%	53%	17%	25%	32%	9%	23%	30%	46%	31%
Black, African American		2%	2%	2%	1%	16%	10%	2%	5%	4%	29%	9%	8%
American Indian, Alaskan Native		0.2%	0.2%	0.3%	0.2%	0.4%	1%	0.2%	0.6%	0.8%	0.5%	0.4%	0.4%
Native Hawaiian, Pacific Islander		0.2%	0.2%	0.2%	0.1%	0.2%	0.4%	0.2%	0.2%	0.4%	3%	0.5%	0.5%
Some Other Race		2%	1%	2%	1%	2%	10%	3%	5%	21%	11%	13%	6%
Multiracial (2 or More Races)		4%	3%	3%	3%	5%	6%	4%	4%	6%	4%	5%	4%
Ethnicity													
Hispanic or Latino		5%	4%	4%	5%	7%	22%	8%	13%	43%	19%	26%	14%
Citizenship													
Born in California		35%	35%	26%	36%	34%	26%	43%	34%	34%	44%	35%	35%
Born in the U.S., outside of California		23%	46%	28%	14%	42%	30%	24%	46%	17%	19%	11%	27%
Foreign Born		41%	18%	45%	48%	23%	42%	32%	18%	48%	35%	52%	37%
Foreign Born and Naturalized		26%	10%	24%	35%	13%	18%	20%	9%	22%	20%	32%	21%
Language Spoken at Home (for Persons 5 yrs and Older)													
Population Over 5 yrs		69,626	63,066	69,229	67,743	62,695	70,894	66,152	72,111	61,815	71,861	70,438	745,650
Speak Only English		49%	79%	49%	40%	73%	50%	60%	77%	36%	51%	34%	54%
Speak Spanish		4%	4%	4%	3%	5%	19%	6%	10%	39%	17%	22%	12%
(% English "Not Well" or "Not at All")		15%	7%	18%	7%	15%	34%	9%	13%	34%	26%	24%	26%
Speak Other Indo-European Lang.		12%	8%	6%	9%	8%	8%	9%	6%	3%	3%	2%	7%
(% English "Not Well" or "Not at All")		20%	12%	13%	17%	25%	21%	12%	7%	8%	15%	11%	16%
Speak Asian/Pacific Island Lang.		34%	9%	41%	47%	12%	21%	24%	5%	21%	28%	41%	26%
(% English "Not Well" or "Not at All")		32%	20%	56%	32%	29%	39%	21%	14%	31%	37%	32%	35%
Speak Other Languages		1%	1%	0.4%	1%	1%	1%	1%	1%	1%	1%	1%	1%



# Appendix A: 2000 Census Data by Census Tract Mapped to Supervisorial District

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	SF Total
<b>Households</b>												
Total Housing Units	30,709	39,741	42,616	25,812	32,996	39,242	28,033	40,441	21,205	24,669	21,043	346,527
% Occupied	96%	94%	92%	97%	96%	92%	97%	96%	97%	96%	98%	95%
Owner Occupied	35%	27%	13%	60%	19%	10%	61%	34%	43%	51%	70%	35%
Renter Occupied	65%	73%	87%	40%	81%	90%	39%	66%	57%	49%	30%	65%
<b>Total Households</b>	29,507	37,374	39,214	25,027	31,769	36,143	27,133	38,962	20,594	23,416	20,541	329,700
Households w/ 1 person under 18 yrs	21%	10%	10%	28%	12%	12%	25%	11%	32%	41%	40%	19%
Households w/ 1 person 65 yrs or over	26%	18%	28%	34%	19%	19%	31%	13%	24%	26%	36%	24%
<b>Income</b>												
Per Capita Income	\$31,594	\$75,877	\$37,597	\$26,336	\$36,248	\$24,751	\$39,829	\$49,382	\$21,423	\$21,789	\$19,176	\$34,549
Household Income Less Than \$25,000	18%	14%	34%	18%	25%	47%	15%	14%	21%	28%	16%	23%
Household Income \$25,000 to \$49,999	24%	17%	25%	22%	23%	23%	19%	20%	25%	23%	27%	22%
Household Income \$50,000 to \$74,999	20%	16%	15%	21%	18%	13%	16%	20%	21%	17%	21%	18%
Household Income \$75,000 to \$99,999	13%	11%	9%	14%	12%	7%	15%	15%	14%	13%	15%	12%
Household Income \$100,000 to \$149,999	15%	17%	8%	16%	12%	6%	18%	16%	13%	13%	14%	13%
Household Income \$150,000 to \$199,999	5%	9%	4%	5%	5%	2%	8%	7%	4%	4%	4%	5%
Household Income over \$200,000	4%	17%	5%	3%	5%	2%	10%	8%	2%	4%	2%	6%
<b>Poverty (for Persons Whom Poverty Status is Determined)</b>												
# of Persons	70,078	64,939	70,510	70,411	63,353	70,619	66,888	74,119	64,926	75,870	73,643	765,356
Persons Below the Poverty Level	8%	5%	14%	8%	13%	23%	7%	8%	13%	17%	8%	11%
Persons Between 100% and 200% of the Poverty Level	12%	6%	22%	11%	15%	24%	8%	9%	18%	18%	17%	15%
Persons at 200% or Greater Than the Poverty Level	80%	88%	65%	81%	71%	53%	85%	83%	69%	65%	75%	74%
<b>Gross Rent (for Renter-Occupied Housing Units)</b>												
Gross Rent < \$300	2%	2%	11%	2%	9%	16%	2%	3%	5%	19%	2%	8%
Gross Rent \$300 to \$599	9%	6%	23%	7%	13%	32%	4%	9%	16%	21%	11%	16%
Gross Rent \$600 to \$899	27%	16%	27%	23%	22%	25%	20%	26%	29%	21%	24%	24%
Gross Rent \$900 to \$1,249	30%	24%	18%	26%	23%	11%	33%	27%	25%	15%	29%	22%
Gross Rent \$1,250 to \$1,999	24%	31%	15%	30%	24%	10%	28%	26%	20%	18%	26%	22%
Gross Rent \$2,000 and Over	5%	17%	5%	7%	7%	5%	10%	8%	4%	5%	4%	7%

# Appendix A: 2000 Census Data by Census Tract Mapped to Supervisorial District

District 1 District 2 District 3 District 4 District 5 District 6 District 7 District 8 District 9 District 10 District 11 SF Total													
Highest Educational Attainment (for Population 25 and Older)													
Population 25 and Older	54,772	55,933	58,933	53,461	52,041	57,881	51,310	57,881	46,107	49,313	52,074	589,706	
Less Than High School	15%	4%	28%	19%	11%	27%	8%	27%	31%	31%	30%	21%	
High School Graduate/Some College	29%	19%	25%	35%	28%	35%	30%	35%	34%	40%	41%	32%	
Bachelor's or Associate Degree	38%	48%	32%	34%	40%	28%	38%	28%	26%	21%	24%	33%	
Master's Degree	11%	19%	10%	7%	12%	7%	13%	7%	6%	5%	3%	9%	
Professional Degree/Doctorate	6%	10%	5%	5%	8%	4%	11%	4%	3%	3%	2%	6%	
Primary Transportation to Work (for Commuting Persons 16 Yrs & Over)													
Population 16 Yrs and Over	40,496	43,306	39,306	36,376	39,121	35,154	35,293	51,648	32,860	31,824	33,169	418,553	
Drove Alone	43%	45%	22%	50%	35%	21%	52%	41%	40%	49%	48%	40%	
Carpooled	12%	9%	6%	14%	8%	6%	13%	8%	12%	17%	16%	11%	
Streetcar or Subway	1%	1%	4%	12%	8%	10%	14%	21%	11%	2%	11%	9%	
Bus	31%	26%	25%	16%	28%	26%	10%	11%	22%	22%	19%	21%	
Bicycled	1%	1%	1%	1%	3%	3%	1%	4%	4%	1%	0.2%	2%	
Walked	6%	7%	32%	2%	10%	26%	4%	6%	5%	3%	2%	9%	
Average Commute Time (for Commuting Persons 16 Yrs & Over)													
Worked at Home	5%	7%	5%	3%	5%	5%	5%	6%	3%	4%	2%	5%	
Under 15 minutes	12%	16%	19%	8%	14%	22%	14%	12%	15%	15%	10%	14%	
15-30 minutes	28%	35%	38%	26%	34%	37%	32%	35%	34%	35%	34%	33%	
30-45 minutes	31%	23%	22%	30%	27%	21%	26%	27%	27%	23%	30%	26%	
45 minutes and over	25%	19%	16%	32%	20%	16%	23%	20%	21%	23%	25%	22%	

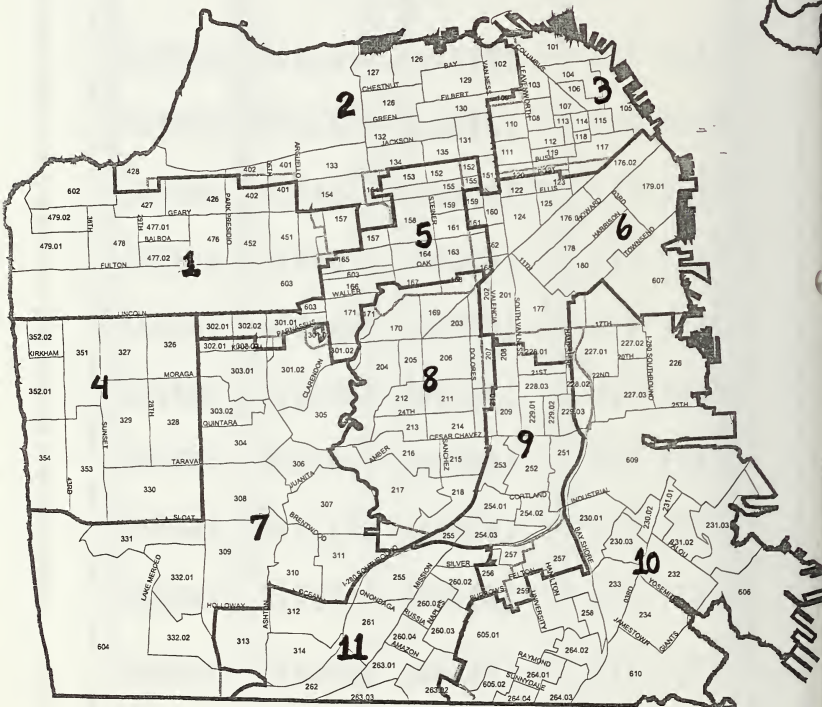
## Appendix B: San Francisco Supervisorial Boundaries and 2000 Census Tracts

### Legend

Dark Grey Boundaries = 2002 Supervisorial Districts

Light Grey Boundaries = Old Supervisorial Districts

Thin, Numbered Areas = 2000 Census Tracts





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## LEGISLATIVE ANALYST REPORT

To: Members of the Board of Supervisors  
From: Office of the Legislative Analyst  
Date: December 11, 2002

41 Library  
100 Larkin Street Govt Information Center

RE: Natural Areas Program (File # 021355)

### SUMMARY AND SCOPE OF REQUEST

Supervisor Daly, through the Board, requested that the Office of the Legislative Analyst (OLA) study the City's Natural Areas Program, contrast and compare this program to the efforts in other cities, study and report on all resolutions and ordinances concerning the program, and interview all the various stakeholders who are interested in or concerned about the program.

### EXECUTIVE SUMMARY

After briefly summarizing the recent history of the Natural Areas Program (NAP), this report offers recommendations to the Board of Supervisors and the Recreation and Park Department for improving what was seen as a flawed public process and the NAP's failure to operate in an open and publicly accountable manner. This report is issued on the heels of the Rules Committee's appointment of members to the Citizens Advisory Committee and is released in an effort to maximize this window of opportunity so that the Natural Areas Program does not suffer from further criticism regarding its public involvement procedures.

Specifically, based on interviews with NAP stakeholders, the OLA recommends that the Board:

- Appoint Citizens Advisory Committee members who represent each of the eight diverse interests contained in the enabling resolution (and not simply four from each of the two categories, where possible) and who are open-minded, committed to the policy goals contained in Policy 13 of the 1991 General Plan and the 1996 Sustainability Plan, and do not collectively dominate one side of the politically contentious issues faced by the NAP (namely: policies for off-leash dog use, recreational use, and tree management);
- Carefully choose the two at-large positions available to the Board to appoint one member who represents broad neighborhood organizations, school interests or education programs and one who is otherwise skilled in conflict resolution;
- Direct the Committee to take the draft management plan to the neighborhood groups and hold regional discussions in the neighborhoods in late 2003 to discuss it once they have completed its initial review; and

- Formalize the meeting procedures for the Committee including Sunshine Ordinance requirements and inclusion of public comment as well as create a formal means of incorporating all comments into the final draft management plan.

The OLA also offers voluntary recommendations for the Parks and Recreation Department as part of the final section on next steps for the NAP.

### BACKGROUND

The idea to create a Natural Areas Program (NAP) originated with local environmental not-for-profit organizations and was mandated by Policy 13 of the 1991 General Plan<sup>1</sup>, to “Protect and Preserve Significant Natural Resource Areas.” Formalized by the Recreation and Parks Commission in 1995<sup>2</sup>, the NAP aims to “restore and enhance remnant Natural Areas and to develop and support community-based site stewardship.”<sup>3</sup> The Natural Areas Program:

- covers approximately 500 acres of San Francisco’s 3,500 acres of parkland in 35 Significant Natural Areas (ranging in size from less than an acre to almost 400 acres and including sections of Golden Gate Park, Lake Merced, McLaren Park, O’Shaughnessy Hollow, Mt Davidson, Twin Peaks, Bernal Hill, Bayview Park, Sharp Park in San Mateo County, and several smaller parks mostly in central San Francisco);
- contains an estimated 60,000 to 80,000 mostly non-native trees;
- is administered by the Recreation and Parks Department (RPD);
- has a budget of approximately \$600,000; and
- employs nine RPD gardeners, one director, and one volunteer coordinator to oversee the program.<sup>4</sup>

### **Recent Controversy**

The NAP drew heavy criticism in the last year when some of its gardeners and a few of its volunteers reportedly girdled mature trees and cut down nearly 1,000 non-native trees and saplings at Lake Merced, McLaren Park, Mt. Davidson, Tank Hill and Bayview Hill.<sup>5</sup> According to Natural Areas Director Lisa Wayne, the NAP has girdled only 6 trees and removed approximately 60 mature trees (greater than 6” in diameter) and numerous immature saplings that posed a threat to bio-diversity. In addition, Ms. Wayne states that the NAP has managed to plant more trees in Natural Areas than they have removed.

Critics of the NAP have also contended that the program has been a failure of public process, lacking proper oversight, accountability, and involvement from all interests<sup>6</sup>. The 19-member,

<sup>1</sup> City Planning Commission Resolution 13149 passed August 15, 1991.

<sup>2</sup> Recreation and Park Commission Resolution 9501-008.

<sup>3</sup> Significant Natural Areas Management Plan, June 2002, p. ES-1.

<sup>4</sup> July 11 Hearing on the Natural Areas Program before the Neighborhood Services and Recreation Committee.

<sup>5</sup> “Public Ire at Parks Habitat Program Rises” Ken Garcia, San Francisco Chronicle, July 19, 2002 and

“Preservationists Vs. Environmentalists”, abc7news.com, May 20, 2002.

<sup>6</sup> Ibid, plus public comment at the July 11, 2002 Neighborhood Services and Recreation Committee hearing.



RPD-appointed Green Ribbon Panel (see Appendix A for a complete list of member organizations) assigned to review the June 2002 draft Significant Natural Resource Areas Management Plan was seen by some as operating secretly and favoring native plants and animals to the exclusion of other competing uses such as recreation, tree preservation and off-leash dog use.

### **The City's Response**

As a result, on September 23, 2002 the full Board unanimously approved Supervisor Yee's resolution, amended by Supervisor Gonzalez, to replace the Green Ribbon Panel with a 12-member Natural Areas Program Citizens Advisory Committee (NAPCAC). The resolution (BOS file #021260) stated that the NAPCAC shall include;

- four persons "who are knowledgeable in issues related to natural areas, including: environmental interest advocacy, academic ecology, open space restoration, water and soil erosion",
- four persons "interested in access to and use of public parks and open space, including: recreational uses, persons interested in trees and plants in public parks and open space, youth activities, representation of neighborhoods that contain public parks and open space", and
- four persons appointed at large.

The Board of Supervisors, through the Rules and Audits Committee, shall appoint ten of the members and the General Manager of the RPD shall appoint two of the at large members.

According to Natural Areas Director Lisa Wayne, RPD is also revising a number of the recommendations of its draft management plan based on public comment, including for instance the treatment of feral cats.

### **Other State Programs**

A number of other cities have Natural Areas Programs in place including Boston, Chicago, Denver, New York, Philadelphia, Seattle, and Tucson. The OLA interviewed program staff from Boston, Chicago, and Denver and found that, while each city was also in the process of evaluating a draft management plan for these areas, the political situation and role of public involvement was significantly different to warrant focusing exclusively on specific recommendations for San Francisco.

### **RECOMMENDATIONS AND NEXT STEPS FOR THE NAP**

The Rules and Audits Committee is scheduled to take up consideration of the appointment of members and forward them to the full Board on December 2, 2002. While the Board has already approved the formation of the NAPCAC, the selection of new advisory committee members represents a significant opportunity for the Board to guide the future of the NAP. In the interests of minimizing the antagonism and general misperception that derailed the Green Ribbon Panel as well as creating a transparent and successful process for the NAP, the OLA offers the following



recommendations based on conversations with advocates both for and against the process that has governed the NAP to date<sup>7</sup>:

1. ***Nominate appointees to the NAPCAC who will uphold the goals of the NAP as well as represent its diverse interests.*** The most critical role for the Board of Supervisors will be to appoint members to the newly created NAPCAC. The primary qualification for appointment should be commitment to the goals for the NAP outlined in Policy 13 of the 1991 General Plan and the 1997 Sustainability Plan which value the existence of Natural Areas as unique regions distinct from other parklands. While this should go without saying, prior experience indicates that not all members of the Green Ribbon Panel were committed to these goals from the outset and some members were reluctant to compromise on critical issues. Within this group, the Board should make every effort to represent each of the eight "Community Interest Categories" contained in the resolution establishing the NAPCAC<sup>8</sup> as well as ensure that representatives from each category do not dominate one specific issue (such as one side of the often-inflexible debate between off-leash dog use and preservation of native plants). In addition, the OLA recommends that:
  - (a) The Board appoint one at-large appointee who represents the interests of San Francisco school programs or broad neighborhood issues and one at-large appointee who is skilled in conflict resolution;
  - (b) The General Manager of RPD use at least one at-large appointee to represent additional scientific and/or resource-use experience;
  - (c) NAP staff give all appointees, once approved, the history of the NAP and the context of the NAPCAC's mission in light of the passage of the 1991 General Plan and 1997 Sustainability Plan; and
  - (d) NAP staff conduct site visits with all NAPCAC members to familiarize them with the issues specific to each Natural Area;
2. ***Formalize the operating procedures governing the NAPCAC.*** Perhaps the single biggest failure of the Green Ribbon Panel was its failure to operate in an open and publicly accountable manner. The NAPCAC should therefore:
  - (a) Follow the City's Sunshine Ordinance to the letter of the law including meeting notices and the posting of agendas;
  - (b) Follow standard parliamentary procedure including the inclusion of public comment at the beginning of each meeting and/or for each agenda item;
  - (c) Create a formal means of incorporating both NAPCAC review and public comment into the final draft management plan; and

<sup>7</sup> Interviewees the week of September 30, 2002 included Lisa Wayne, Director of the Natural Areas Program; Jake Sigg of the California Native Plant Society; Arthur Feinstein of the Golden Gate Audubon Society; Mike Vasey of the SFSU Biology Department; Barbara Holzman of the SFSU Geography Department; Pinky Kushner and John Rizzo of the Sierra Club; Carolyn Blair of the San Francisco Tree Council; Milton Marks of Friends of the Urban Forest; Bill Carlin of the McLaren Park Habitat Restoration Group; Steve Cockrell of the Parks Coalition, Karen Hu of the San Francisco Dog Owners Group, and Joan Roughgarden of the Parks and Recreation Open Space Advisory.

<sup>8</sup> BOS Resolution #021260 approved September 23, 2002.

- (d) Report their findings to the broader 23-member, Board-appointed Parks and Recreation Open Space Advisory Committee (PROSAC) which is mandated by Charter Section 16.107 and Park Code Article 13.
3. ***Formalize the support structure available to the NAPCAC.*** There are currently no dedicated staff or supply resources made available to the Committee once formed. Given the likelihood of future budget cuts at the departmental level, the Board may wish to consider who will provide staff support to the Committee and how existing staff and material resources will absorb this increased workload.
4. ***Improve neighborhood involvement in the process from the beginning.*** Several Green Ribbon Panel members stated that neighborhood groups were underrepresented in the early consideration of the draft management plan and this more than likely contributed to the vocal criticism of the Green Ribbon Panel. The OLA therefore recommends that:
- (a) The Board grant the NAPCAC the further mission of taking the draft management plan to the neighborhood groups and holding regional discussions in the neighborhoods in late 2003 to discuss it once they have completed its initial review;
  - (b) NAP staff expand and make more accessible to the public the Frequently Asked Questions page currently on RPD's Web site – particularly the distinction between tree and sapling, anticipated future expansion of the NAP into other parks and, where possible, proposed trail closures or tree cuttings, coordination between RPD and the NAP, proposed policies for removal of non-native species, treatment of feral cats, and off-leash dog use. This could be achieved through signage at points of entry to the Natural Areas, distribution at future NAPCAC meetings, and/or distribution with sections of Chapter 6 below;
  - (c) NAP staff post the draft management plan on its Web site or send the appropriate section of Chapter 6 of the draft management plan relating to "Site-Specific Conditions and Recommendations" to established neighborhood groups (such as Friends of McLaren Park, Friends of Lake Merced, and others), including a cover memo explaining its origin, the mission of the NAPCAC and the necessity of public comment after NAPCAC's review;
  - (d) NAP staff consider surveying a sample of Natural Areas users to determine times and primary types of use as well as proposed goals for the NAP;
  - (e) NAP staff continue to utilize the extensive volunteer network to maintain and improve the City's Natural Areas. According to former Green Ribbon Panel members, this could be achieved by targeting a specific weed or promoting a specific flower each year to raise the importance of volunteer participation, formalizing volunteer docent programs in specified Natural Areas, or hosting annual Adopt-a-Natural-Area cleanup or planting programs.

## **Appendix A: Green Ribbon Panel Member Organizations**

1. San Francisco Beautiful
2. San Francisco Tomorrow
3. Neighborhood Parks Council
4. San Francisco Dog Owners Group (SF DOG)
5. San Francisco Planning and Urban Research Association (SPUR)
6. Friends of the Urban Forest
7. Commission on the Environment
8. San Francisco Zoo,
9. Recreation and Park Department's Parks, Recreation, and Open Space Advisory Committee (PROSAC)
10. Golden Gate Audubon Society
11. California Native Plant Society
12. Sierra Club
13. San Francisco League of Urban Gardeners (SLUG)
14. Friends of Bernal Hill
15. Friends of Recreation and Park
16. Friends of Lake Merced
17. Friends of Corona Heights
18. San Francisco Weed Management Area
19. California State Parks

## Appendix B: Recent Resolutions and Ordinances Concerning the NAP

1. Policy 13 of the 1991 General Plan (Resolution 13149) passed August 15, 1991 by the City Planning Commission, to "Protect and Preserve Significant Natural Resource Areas" and states that such sites "... should be protected and enhanced through restrictions on use and appropriate management..."
2. 1995 passage of Recreation and Park Commission Resolution 9501-008 providing for the creation and implementation of a Significant Natural Resource Areas Management Plan. The first NAP staff began work in 1997.
3. Passed by the Commission on the Environment in October 1996 and the Board of Supervisors in July 1997, the Sustainability Plan for San Francisco sets, "sustainable development as a fundamental goal of municipal public policy, and approv[es] the goals and objectives set out in the plan as ends that the City will strive to attain."
4. Ordinance (BOS File #020849) introduced by Supervisor Yee May 20, 2002 and currently pending in the Neighborhood Services and Recreation Committee to amend the park Code by adding Article 5A governing Voice Control Areas in City parks and providing the site requirements for Voice Control Areas, including requirements for location, size boundaries, surfacing and amenities; providing the procedure for establishing and eliminating Voice Control Areas, setting guidelines for the maintenance and management of Voice Control Areas; setting the rules of conduct within Voice-Control Areas; creating an Advisory Committee to advise the City regarding Voice-Control Area issues; describing the funding for Voice-Control Areas; establishing a procedure for handling complaints regarding Voice-Control Areas; and setting rules for the use of Voice-Control Areas by professional dog walkers. Amended by Sup. Leno September 26, 2002 and still pending committee action.
5. Ordinance (BOS File #020842) introduced May 20, 2002 and tabled by the Finance Committee June 12, 2002 exempting the San Francisco Conservation Corps from the prevailing wage requirements and waiving the competitive bid requirements for the Recreation and Park Commission's award of a contract for construction of playgrounds, restoration of natural areas and implementation of erosion control measures in San Francisco parks.
6. Hearing Thursday July 11, 2002 in Neighborhood Services and Recreation Committee considering the long-term management plan proposed of the restoration and maintenance of 33 "significant natural-resource areas" including native plants or bodies of water in the city's parks.
7. Resolution (BOS File #021260) introduced July 15, 2002 and returned to the full Board "with recommendation" by a 3-0 vote September 18, 2002 in the Rules and Audits Committee establishing a Board of Supervisors Natural Areas Program Citizens Advisory Committee

(NAPCAC). The 12-member NAPCAC, once formed, will replace the 19-member Green Ribbon Task Force. Amended and unanimously approved by the full Board September 23, 2002.

8. Ordinance (BOS File #021464) introduced by Supervisor Leno and assigned to the Neighborhood Services and Recreation Committee August 19, 2002 amending the San Francisco Park Code by adding Section 3.19 to require public notice prior to removing or girdling trees. Currently pending in Committee.



OLA#: 062-01

2/02  
**LEGISLATIVE ANALYST REPORT**

**To:** Honorable Members of the Board of Supervisors  
**From:** Erika J. Cruz w/ Adam Van de Water, Office of the Legislative Analyst  
**Date:** December 12, 2002  
**RE:** Biodegradable Packaging (File # 011988)

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**SUMMARY OF REQUESTED ACTION**

Supervisor Sandoval, through the Board of Supervisors, requested that the Office of the Legislative Analyst (OLA) provide general research and analysis on the feasibility of requiring San Francisco businesses to use biodegradable materials for packaging. In addition, the request asked the Legislative Analyst to provide comparative information on other cities' laws and policies regarding businesses and the use of biodegradable packaging.

**EXECUTIVE SUMMARY**

The Department of Public Works indicates that fast food wrappings, plastic, and furniture are among the items most frequently found on City streets.<sup>1</sup> Most notably, there is a substantial amount of litter in the City's streets and landfills that are non-recyclable and non-biodegradable. Also, San Francisco has an average per capita waste-generation rate of 7.5 pounds of waste per day, which is greater than the 5 pound national average.<sup>2</sup>

Despite the attractiveness of requiring businesses to use biodegradable packaging, the OLA finds such an ordinance is not currently economically or administratively feasible due to the cost and still burgeoning technology of manufacturing and developing biodegradable packaging products. Instead, a more feasible ordinance in the present would be to target retail food establishments and prohibit them from distributing polystyrene foam food containers as done in Berkeley and Portland, OR. The Department of the Environment supports a longer-term alternative which is to pass an ordinance requiring businesses to use reusable, recyclable, or compostable packaging when the market becomes more economically viable sometime in the near future. Jack Macy of the Department of the Environment estimates that this could be the case within the next approximately 24 months.

Plans of action the Board of Supervisors can undertake therefore include:

- Request the City Attorney to draft an ordinance prohibiting retail food establishments from using polystyrene foam food packaging, while strongly encouraging them to use paper packaging;

Edwin M. Lee, San Francisco Director of Public Works, October 11, 2001 correspondence.

<sup>2</sup> <http://www.sustainable-city.org/Plan/SolidWst/intro.htm>.



- Consider an ordinance that requires businesses under contract with the City/County of San Francisco, and that package their own products, to use biodegradable packaging; and/or
- Urge the Department of the Environment to assist the City Attorney's Office in submitting a proposed ordinance requiring businesses to use reusable, recyclable, or compostable packaging when the department has determined such action to be feasible.

Upon outlining the policy issues and implications associated with each type of ordinance, this report provides some questions that the Board of Supervisors may wish to consider when drafting legislation regarding biodegradable packaging.

### **BIODEGRADABLE PACKAGING: BACKGROUND**

Packaging is biodegradable when it is capable of undergoing decomposition when exposed to either microorganisms that eat the packaging or to atmospheric elements. Biodegradable items are capable of biodegrading either as solids into soil or as liquids into water depending upon the item's original form. Despite the ability to biodegrade into the earth, these products do not biodegrade in a matter of days; rather, they can take up to several months or years, especially when placed in a landfill (see Appendix A for different product biodegradability rates). Products that undergo general manufacturing processes are not biodegradable because the once natural and biodegradable materials used to make the packaging have been altered in such a way that renders the product unable to biodegrade into the earth. As a result, these items end up becoming litter and polluting our lands, waterways, and air.<sup>3</sup> As such, it is appealing to require businesses in San Francisco to utilize biodegradable packaging in order to diminish the amount of non-biodegradable trash in the waste stream.

While there are currently companies undertaking the initiative to develop biodegradable packaging, the currently available technology is limited. For instance, there are currently plastic products being produced with potato starch and cornstarch.<sup>4</sup> However, since product and technology developments are currently in initial stages, availability of such biodegradable products is generally limited and significantly more costly than packaging that is presently being used by businesses. As this report will discuss later, another issue is that some packages that are labeled as biodegradable do not currently meet San Francisco's composting facility requirements.

As a result of the high price differential and limited availability, it is not economically or administratively feasible to require all businesses to use biodegradable packaging. This may explain why there are currently no cities in the United States that have passed and enforced ordinances requiring all businesses to use biodegradable packaging. As this report will discuss in further detail, a more feasible alternative would be to ban retail food establishments from using polystyrene foam take out food packaging. When conditions are more conducive to such action, the City/County will be more effective in diverting trash from the waste stream by requiring reusable, recyclable, or compostable packaging.

### **CURRENT LAW AND PRACTICE**

The only relevant San Francisco law pertaining to food packaging is Section 469 of the San Francisco Health Code entitled, "Chlorofluorocarbon (CFC) Processed Food Packaging." This law prohibits retail food establishments from distributing or selling CFC processed food packaging to customers. Since most polystyrene foam food packaging was manufactured with CFCs at the time the ordinance was written, the law

<sup>3</sup> [www.worldwise.com/biodegradable.html](http://www.worldwise.com/biodegradable.html)

<sup>4</sup> [wysiwyg://58/http://www.wired.com/news/technology/0,1282,51871,00.html](http://www.wired.com/news/technology/0,1282,51871,00.html)

was intended to outlaw polystyrene foam. However, this law has become outdated since most polystyrene foam food packaging products are no longer produced with CFCs. Hence, the law is no longer effective in preventing retail food establishments from utilizing polystyrene foam food packaging.<sup>5</sup> The Bay Area Air Quality Management District (BAAQMD), which has jurisdiction over San Francisco, has passed laws limiting the VOC (Volatile Organic Compound) content used in polystyrene foam manufacturing processes in order to help reduce smog production, however it does not prohibit the use of CFCs in manufacturing processes.<sup>6</sup>

The federal government does not currently require the general public or private companies to use biodegradable packaging, however it does require that certain federal procuring agencies purchase designated items, such as paper, that contain a specified level of recycled material.<sup>7</sup> However, there are various federal and state laws that place regulations upon food packaging and food labels. Current laws include the Fair Packaging and Labeling Act (15 USC §1451), California Fair Packaging and Labeling Laws (Health and Safety Code §110290 et seq.), Organic Foods Production Act of 1990 (7 USC §6501 et seq.), California Organic Foods Act of 1990 (Health and Safety Code §14500 et seq.), Plastics Recycling Labeling (Pub. Res. Code § 18000), and Glass Container Laws (Pub. Res. Code § 70000). Should the Board of Supervisors wish to draft an ordinance regulating the use of biodegradable packaging, the City Attorney's Office would need to determine whether such an ordinance would be preempted by these state and federal laws.

### POLICY ANALYSIS

#### *Requiring all Businesses to Use Biodegradable Packaging Is Not Currently Feasible*

While the idea of requiring businesses to use biodegradable packaging for products is initially attractive, no such law has currently been both passed and enforced. Among the reasons for the absence of such practices is that it is not currently economically feasible to require all businesses to package their products in biodegradable packaging. While there have been efforts in the agricultural industry to create bio-based products, such as plastic bags made from starch bases, these biodegradable products are currently limited in availability and are still priced substantially higher than packaging that is currently in use.

The San Francisco Department of the Environment has been studying the potential of passing an ordinance requiring businesses to use reusable, recyclable, or compostable packaging that can later be used for composting. However, according to Jack Macy, Commercial Recycling Coordinator at the San Francisco Department of the Environment, it will not be feasible in the short-term to implement such an ordinance. Aside from limited availability, biodegradable products are currently up to three times more expensive than non-biodegradable packaging. Such an ordinance therefore could help develop a market for biodegradable materials, but is more likely to be economically and administratively feasible when the development of biodegradable packaging is more widely available and cost-effective.<sup>8</sup> Furthermore, there are different levels of biodegradability among products that are claiming to be biodegradable. For instance, some packaging that is labeled as biodegradable contain polyethylene, which is not acceptable for San Francisco's composting facilities because such products take too long to break down. However, these products may meet San Francisco's

<sup>5</sup> Interview with Patrick Kaulback, registered Environmental Health Specialist for the City of Berkeley, September 18, 2002.

<sup>6</sup> Bay Area Air Quality Management District Reg. 8, Rule 52.

<sup>7</sup> Correspondence with EPA Call Center, 9/20/02.

<sup>8</sup> Interview with Jack Macy, Commercial Recycling Coordinator at the San Francisco Department of the Environment, October 30, 2002.

requirements at some point in the future. Nonetheless, those biodegradable products that do currently meet San Francisco's composting facility requirements are currently too expensive.<sup>9</sup>

There are no model cities or states that have successfully passed and enforced an ordinance requiring all businesses to use biodegradable packaging. This is likely due to the fact that:

- National suppliers are unlikely to change product packaging for only a small portion of their national business bases (i.e.- A ketchup company that packages its product in non-biodegradable plastic bottles is unlikely to change its packaging to biodegradable plastic solely for supermarkets in San Francisco).
- Due to time and monetary constraints, it is unrealistic to expect stores that already receive products packaged to re-package all products in biodegradable packaging.
- The extra cost to businesses of purchasing biodegradable packaging is currently a hardship. Furthermore, such a law will pose an unfair disadvantage to businesses in San Francisco relative to other businesses outside of the City and County that are not subject to such a law. Hence, such an ordinance may be challenged in court.
- If biodegradable packaging is limited in supply and excessively costly at the time the law is passed, it may have the effect of deterring business from San Francisco and thereby have negative economic impacts on our jurisdiction. Furthermore, current businesses may relocate to a jurisdiction in which such laws are not imposed.
- "For some products, including various liquid pesticides, paints, and solvents, glass or plastic may provide the safest packaging, and in some cases may be federally mandated. This is also the case with packaging of certain food products, which is heavily regulated by the FDA. Also, repackaging of food or medicine could lead to contamination."<sup>10</sup>
- The political feasibility of such an ordinance is currently questionable. It is likely to be supported by citizens because it will help to protect the environment, however it may meet strong opposition from businesses and consumers due to significantly higher costs.
- The ordinance is not *currently* economically feasible due to costs for reasons stated above.
- The ordinance is not currently administratively feasible because it will likely be difficult for businesses to find the type of products, as well as the appropriate quantity, to fulfill their needs.

### *There Are Currently Four Available Options*

#### **1. Limit non-biodegradable packaging in retail food establishments**

Prohibiting retail food establishments from packaging take out food in polystyrene foam, while strongly encouraging them to use paper-based compostable packaging, is a potential alternative to requiring all businesses to use biodegradable packaging. While this type of measure will not necessarily increase the

<sup>9</sup> Interview with Jack Macy, Commercial Recycling Coordinator at the San Francisco Department of the Environment, December 9, 2002.

<sup>10</sup> Jared Blumenfeld, San Francisco Department of the Environment, October 16, 2001 correspondence.

amount of biodegradable packaging utilized in San Francisco, it will potentially have the effect of reducing the amount of non-biodegradable and non-recyclable trash going into the waste stream. As will be illustrated in the "Other Jurisdictions" section of this report, cities such as Berkeley and Portland have successfully implemented and enforced a ban on retail food establishments using polystyrene foam food packaging. There are various reasons that one can conclude that the prohibition of polystyrene foam food packaging will be more feasible than requiring all businesses to use biodegradable packaging. Among the reasons are:

- Other cities have successfully passed and enforced such ordinances.
- Such an ordinance is targeting a much smaller segment of the market/businesses, therefore it will be easier to enforce the measure.
- It will be easy for retail food establishments to package take out food in alternative types of packaging, such as paper or plastic, because the food is packaged on the spot.
- Aside from their potential to be recycled and/or composted, plastic and paper food packaging and containers can be utilized in place of polystyrene foam. While more costly than foam containers, these products are not significantly higher in cost (economically feasible).
- Prohibiting polystyrene foam is an incremental and realistic step toward making a difference in San Francisco's waste stream, therefore there is more likely to be more support for (or at least less resistance to) the measure (politically feasible).
- This sort of law is administratively feasible. Since paper and plastic are readily available in the marketplace, businesses can reasonably be expected to comply with the ordinance.

Despite the potential benefits of passing such an ordinance, the City and County of San Francisco may confront certain issues and complaints upon implementation. An official from the Department of the Environment noted that businesses will likely switch from polystyrene foam to plastic packaging. As not all plastic is recyclable, this type of ordinance may not have the effect of reducing non-biodegradable packaging. As such, the Board may wish to consider strongly encouraging businesses to use paper-based, compostable packaging if such an ordinance is passed. Other potential issues include:

- Passing such an ordinance now could reduce the support for the Department of the Environment's proposal to require businesses to use compostable, recyclable, or reusable packaging once the market has more fully developed for these products in the next one to two years (see Option 4 below).
- Small businesses may assert that the ordinance poses an unfair disadvantage to them because packaging is a bigger proportion of their total costs than it is for big businesses.
- Big businesses may contend that the ordinance poses an undue hardship because they already have contracts with packaging suppliers.
- Businesses may argue that the durability of paper and or biodegradable containers is not as high as the durability of polystyrene foam containers.<sup>11</sup>

<sup>11</sup> Interview with Patrick Kaulback, registered Environmental Health Specialist for the City of Berkeley, September 18, 2002.  
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- Businesses may argue that alternative food containers (plastic and paper) do not keep food as warm or hot as polystyrene foam does.
- Paper packaging tends to disintegrate due to the heat of the food.
- Businesses will dislike paying more for alternative packaging.
- Who will enforce the ordinance? How often will the ordinance be enforced? What will be the cost of enforcement?
- Who will be exempt from the ordinance?

## **2. Require Businesses Contracted with the City/County to Set an Example**

The Board of Supervisors may also consider passing an ordinance that requires all businesses that are contracted with the City/County of San Francisco to utilize biodegradable packaging. For the reasons previously stated in this report, this type of ordinance will be most feasible if it applies only to those businesses that package their products themselves rather than receiving them pre-packaged by a supplier. The ordinance could also encourage all other businesses to use biodegradable packaging. This ordinance would have two major implications: 1) The City/County is leading in this issue area and setting an example; 2) The businesses using this packaging will create a demand for biodegradable packaging, which can possibly result in more development in the area of biodegradable packaging.

Despite the potential success of such an ordinance, the Board of Supervisors should consider the issues that may arise. This ordinance may meet the same pitfalls and issues that would accompany an ordinance requiring all businesses, including retail food establishments, to use biodegradable packaging. Issues such as availability and cost may still be an issue for this concentrated segment of businesses, however one can ascertain that the issue may be less significant than if the ordinance required *all* businesses in the San Francisco area to buy such packaging. Another possible problem is that if this ordinance only applies to businesses that package their own products, it may have the effect of businesses with City/County contracts reverting to buying all products pre-packaged from a supplier.

## **3. Require Businesses to Use Packaging That Can Be Composted**

The San Francisco Department of the Environment has been monitoring the feasibility of diverting packaging from the waste stream by requiring businesses to use biodegradable packaging that can be composted, recycled, or re-used.<sup>12</sup> As discussed before, the feasibility of implementing and enforcing such an ordinance will require further development of biodegradable packaging. While the City and County of San Francisco currently has the facilities available for composting such materials, there are still issues regarding the availability of cost-effective biodegradable packaging that currently meets San Francisco's composting facility requirements.

## **4. Request the Department of the Environment Assist in Drafting an Ordinance in the Future**

Since the feasibility of requiring businesses to utilize biodegradable and compostable packaging relies greatly upon available technologies, the Board of Supervisors can look to the San Francisco Department of the

<sup>12</sup> Interview with Jack Macy, Commercial Recycling Coordinator at the San Francisco Department of the Environment, October 30, 2002.

Environment to provide information and/or assist the City Attorney's Office in drafting an ordinance. Specifically, the Board can consider asking the Department of the Environment to draft an ordinance requiring businesses within San Francisco to use compostable, recyclable, and reusable packaging when the Department deems conditions feasible for such action. The Department of the Environment has been researching the feasibility of such matters and will therefore be a valuable source of information.

### OTHER JURISDICTIONS

Based upon interviews and research conducted by this office, there are currently no jurisdictions that have and simultaneously enforce ordinances requiring all businesses to use biodegradable packaging. In fact, the only ordinances found pertaining to the topic of diminishing "environmentally unfriendly" packaging applied only to food packaging in retail food establishments. While a number of cities passed ordinances regarding regulations of food packaging, only a select number passed and still enforce ordinances that go above and beyond the standards set by the AQMD in their areas. Listed below are brief descriptions of some of these cities' ordinances and practices.

- **Berkeley, California-** The City of Berkeley prohibits retail food establishments from using polystyrene foam packaging. This ordinance only applies to retail food establishments that serve take-out food in packaging. Hence, stores are not required to re-package products that are received in non-biodegradable packaging. Current enforcement measures provide owners with incentive to comply because owners will otherwise pay the full re-inspection fee of the premises by the City in order to ensure compliance with the ordinance. While there is no data available on compliance, an interviewee estimated that 90% of food establishments comply with the ordinance. Enforcement measures include first a written notice, a chargeable re-inspection if individuals have not taken action after the notice, the impounding of the polystyrene foam, and the last step is a hearing with the Administrative Officer at a cost to the food establishment if it fails to comply after previous City actions. Enforcement takes place three to four times per year. An estimated 1-5% of the department's time is spent enforcing this ordinance, and each food establishment's yearly permit generally covers the cost of these inspections.<sup>13</sup>
- **Portland, Oregon-** The City of Portland also prohibits retail food establishments from utilizing polystyrene foam food packaging. The City only provides exemption from the ordinance to nonprofit organizations, such as hospitals, because the food they take to ill individuals will otherwise get cold. The ordinance targets all retail food chains regardless of size and does not generally grant exemptions because all businesses in the area are subject to the same potential hardships that such an ordinance can incur. All businesses subject to the ordinance have complied, even if it required abolishing contracts with suppliers that only provided polystyrene foam packaging. Enforcement is complaint-driven- The City only goes out to a restaurant if it receives a complaint about the restaurant using polystyrene foam; as such, enforcement is not posing a significant cost to the City.<sup>14</sup>
- **St. Paul, and Minneapolis, Minnesota-** The cities of St. Paul and Minneapolis, Minnesota passed a joint ordinance requiring retail businesses to use "environmentally safe packaging," which refers to packaging that is recyclable and biodegradable. However, due to lack of economic and administrative feasibility, the ordinance has not been enforced. St. Paul found it administratively difficult to make independent companies in the area recycle plastic due to the high costs of recycling plastic. Furthermore, Minneapolis found it to be administratively unfeasible because the cost of recycling plastic

<sup>13</sup> Interview with Patrick Kaulback, registered Environmental Health Specialist, City of Berkeley, September 18, 2002.

<sup>14</sup> Interview with Richard Schmidt, Commercial Section of the Solid Waste Recycling Department, City of Portland, October 9, 2002.  
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is so high that recycling would cause the City to cut funding in other program areas. Most importantly, such an ordinance may be thrown out in court because it would pose an undue hardship upon businesses in these cities.<sup>15</sup>

### ISSUES TO CONSIDER IN DRAFTING AN ORDINANCE

Prior to implementing or drafting an ordinance on packaging, it will benefit the Board of Supervisors to address the following questions. By considering the following issues, the Board will help to ensure that the ordinance is more likely to be economically and administratively feasible.

#### *Intent and Drafting*

- What is the City's/County's intent in passing an ordinance pertaining to food packaging? (i.e.- To divert packaging from landfills?)
- Who will this ordinance apply to?
- How can the ordinance be written in order to prevent its enforcement from falling to the wayside after a few years?
- Is it preferable to have an Advisory Committee prior to and after the passage of such an ordinance in order to ensure that all potential costs and economic effects are considered? Or, is it more effective to draft an ordinance and ask a group of individuals knowledgeable about this subject to provide comments on the drafted ordinance?
- How can the ordinance be written in order to prevent it from becoming "outdated"?
- **Who will be exempt** from such an ordinance?
- Will this type of ordinance be cost-effective? i.e.- Will businesses have an alternative product available that falls within a reasonable price range?

#### *Enforcement*

- **Who** will enforce this ordinance?
- **How** will enforcement take place? Will it be complaint driven? Will the "enforcer"/enforcement team be required to conduct regularly scheduled periodic inspections?
- **How often** will enforcement take place (i.e.- the government decides to have the "enforcer" conduct regular inspections)?
- **How much** will enforcement cost?
- **What action will be taken** if a business fails to comply with the ordinance?
- Who will be exempt from this ordinance?

### CONCLUSION AND RECOMMENDATIONS

While passing an ordinance requiring all businesses to utilize biodegradable packaging is attractive due to its potential to further protect the environment, it is not currently economically or administratively feasible. Biodegradable packaging product development is not yet sufficiently developed, therefore it will be difficult for businesses to obtain and also pose a significant economic hardship as a result of the current cost of biodegradable packaging. As such, it will be difficult for the City/County of San Francisco to enforce such a measure. Furthermore, it is unlikely that such an ordinance can be applied to all businesses due to the reasons listed in this report.

<sup>15</sup> Interview with Bill Gunther, City of St. Paul, November 7, 2002.

As an alternative, the Office of the Legislative Analyst recommends that, in the present, the Board consider directing the City Attorney's Office to draft an ordinance prohibiting retail food establishments from utilizing polystyrene foam packaging while strongly encouraging businesses to use paper-based compostable packaging. While this will not completely eliminate the use of non-recyclable or non-biodegradable packaging, such an ordinance can potentially help to reduce the amount of such items in the waste stream. Moreover, targeting retail food establishments is more viable because these establishments package take-out food at their own premises. The Board may also wish to consider drafting an ordinance requiring City/County contracted businesses that package their own products to use biodegradable packaging.

Finally, the Board should consider the potential of drafting an ordinance requiring businesses to use reusable, compostable, or recyclable packaging when the market for such packaging renders this action feasible. The Department of the Environment estimates that this market change could occur within the next 24 months. The Board can ask the Department of the Environment to assist the City Attorney's office in drafting an ordinance or provide information when it finds that it is feasible to impose such requirements upon businesses. In either case, important consideration in passing any ordinance pertaining to packaging are the expected reduction of packaging materials in the waste stream, the costs to all involved, and how enforcement of the ordinance will take place.

Such actions are policy matters for the Board of Supervisors.

## Appendix A: Biodegradability Rates of Commonly Used Products

Item	Biodegradability rate
Cotton rags	1-5 months
Paper	2-5 months
Rope	3-14 months
Orange peels	6 months
Wool socks	1-5 years
Cigarette butts	1-12 years
Plastic coated paper	5 years
Plastic bags	10-20 years
Leather shoes	25-40 years
Nylon fabric	30-40 years
Tin cans	50-100 years
Aluminum cans	80-100 years
Plastic 6-pack	450 years
Glass bottles	1 million years

Source: [www.worldwise.com/biodegradable.html](http://www.worldwise.com/biodegradable.html)



(OLA #: 020-02)

## LEGISLATIVE ANALYST REPORT

To: Members of the Board of Supervisors  
From: Adam Van de Water, Office of the Legislative Analyst  
Date: January 9, 2003  
RE: Nurses in Schools (File No. 021048)

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### SUMMARY AND SCOPE OF REQUEST

Supervisor Maxwell, through the Board, requested that the Office of the Legislative Analyst (OLA) research existing programs that employ school nurses at all school levels in the San Francisco Unified School District (SFUSD). The report should examine the scope of services provided, the number of children/youth served, and the cost and funding resources for such programs.

### EXECUTIVE SUMMARY

California ranks last in the number of nurses per resident in the overall population and San Francisco Unified (SFUSD) ranks fourth of the five major California school districts for nurses per student.

Twenty-five district nurses serve all 19 public high schools, 17 middle schools and 77 elementary schools in SFUSD. These 25 nurses staff the seven Wellness Centers in the larger high schools, monitor the Nurse-of-the-Day hotline, coordinate the middle school Healthy School Teams, teach health education curricula, staff the School Health Center for uninsured students, and provide other health-related services as necessary. For each of these activities, this report describes the services provided, the funding supporting those services, and the number of students using them.

As state and federal funding sources for school health programs come to an end (the Department of Justice funding for School Resource Officers ended in March 2002, the Safe School/Healthy Student Initiative ended in 2002, the Governor has not proposed additional funding for the Gang Resources Intervention Program for the 2003/04 budget year, and the state must close an estimated \$21-\$35 billion budget shortfall), school districts will have to cut pupil services and/or seek additional funding sources for their varied programs. This report concludes with several areas for further research and suggests possible beginnings for meeting this shortfall.



### NURSES IN SCHOOLS

The School Health Program Department (SHPD) coordinates the majority of SFUSD health-related curricula and programs. Nearly 96 percent of SHPD's total budget of \$19 million comes from outside sources including the San Francisco Departments of Children, Youth and Their Families (DCYF) and Public Health (DPH) and the state and federal governments. Responsibility for health promotion efforts in San Francisco's public schools is shared by SFUSD teachers and staff, federally funded School Resource Officers (San Francisco Police Department Officers), Community-Based Organizations and a staff of 80 health educators, school nurses, mental health practitioners, nurse practitioners, psychologists, peer resource coordinators, health workers, and support staff.

According to SHPD, there are currently 25 school nurses serving the 19 SFUSD high schools, 17 SFUSD middle schools, and 77 SFUSD elementary schools or one nurse for every 2,343 students in the school district<sup>1</sup>. San Francisco's nurse-to-student ratio is marginally higher than the statewide average of one nurse for every 2,281 students and is 3.1 times the National Association of School Nurses recommended ratio of one nurse for every 750 enrolled students<sup>2</sup>. Table 1 below compares school nurse ratios for the five largest California school districts.

Table 1: Total Enrollment, Number of School Nurses and Nurse-Student Ratios for the Largest California Unified School Districts

Unified School District	Total 2001/02 Enrollment	# of School Nurses <sup>3</sup>	Ratio of Nurses to Students
1. San Diego	141,599	154	1 : 919
2. San Jose	32,309	17	1 : 1,901
3. Oakland	53,545	24	1 : 2,231
4. San Francisco	58,566	25	1 : 2,343
5. Los Angeles	735,058	181	1 : 4,061
<b>Total Statewide</b>	<b>6,147,375</b>	<b>2,695</b>	<b>1 : 2,281</b>

*Source: CA Dept. of Education, Demography Unit*

Overall, the California School Nurses Organization reports that California ranks 50th in numbers of RNs per 100,000 people. A number of factors have been cited for why this is the case,

<sup>1</sup> Information from the School Health Programs Department and the California Department of Education Demography Unit. This is exclusive of any nurse working in the schools whose funding is not associated with the school district (e.g., the Nurse Practitioner and Registered Nurse at Balboa Teen Clinic).

<sup>2</sup> The California Department of Education Demography Unit and the National Association of School Nurses (<http://www.nasn.org/positions/caseload.htm>).

<sup>3</sup> Information on the number of school nurses counts each individual nurse separately, whether part-time or full-time, and therefore may slightly overrepresent (~10% statewide) the ratio of nurses to students. For example, there are 2,443 Full Time Equivalent (FTE) Nurses in California, making for a nurse to student ratio of 2,516:1.

Unfortunately, FTE information is not currently available at the school district level.



# Introduction

The purpose of this study is to investigate the effects of various factors on the growth and development of plants. The study was conducted over a period of six months, during which time the plants were grown under different conditions. The results of the study are presented in the following sections.

The first section of the study is a review of the literature on plant growth and development. This section discusses the various factors that can affect plant growth, including light, temperature, water, and nutrients. It also discusses the different methods used to study plant growth, including field experiments, greenhouse experiments, and laboratory experiments.

The second section of the study is a description of the experimental design. This section describes the different treatments that were used in the study, including the different light conditions, temperature conditions, and nutrient conditions. It also describes the methods used to measure plant growth, including the measurement of plant height, leaf area, and biomass.

The third section of the study is a presentation of the results of the study. This section shows the data from the different experiments, and discusses the effects of the different factors on plant growth. The results show that light, temperature, and nutrients all have a significant effect on plant growth, and that the effects of these factors are often interactive.

The fourth section of the study is a discussion of the results of the study. This section discusses the implications of the results for plant growth and development, and suggests some possible applications of the results.

The fifth section of the study is a conclusion. This section summarizes the main findings of the study, and discusses the limitations of the study. It also suggests some directions for future research.

The study was supported by the National Science Foundation, and the authors would like to thank the NSF for its support. The authors would also like to thank the following people for their help and assistance during the study: [names of people].

including impacted nursing programs, statewide nursing shortages<sup>4</sup>, rapid population growth, rising budget deficits<sup>5</sup>, and state credentialing requirements.

The 25 registered nurses in SFUSD (8 in the high schools, 6 in the middle schools, and 11 in the elementary schools) earn an average individual salary of \$55,000 plus benefits<sup>6</sup> and, per state law<sup>7</sup>, all must hold a credential from the state Commission on Teacher Credentialing (see Appendix C for details). These 25 nurses staff the seven Wellness Centers in the larger high schools, monitor the Nurse-of-the-Day hotline, coordinate the middle school Healthy School Teams, teach health education curricula, staff the School Health Center, and provide other health-related services as necessary. Each of these services is described in more detail below.

### CURRENT HEALTH PROGRAMS IN SAN FRANCISCO PUBLIC SCHOOLS

School health programs have evolved over the years to include everything from physical education, nutrition and disease prevention to teen pregnancy, violence prevention, substance abuse, psychological counseling, social services, and health education.

The following are brief descriptions of the primary health-related programs performed by nurses in San Francisco's public schools. A list of schools with specific programs can be found in Appendices A and B.

#### **a. Balboa High School Teen Health Clinic**

*(Source of Funds = DPH)*

Begun in 1986 in response to rising teen pregnancy rates in southeast San Francisco, the Balboa Teen Health Clinic has evolved into the most comprehensive health care program in San Francisco's public school system. With a budget of over \$400,000 – primarily from the Department of Public Health<sup>8</sup> – the Balboa Clinic has twelve mental health, medical and administrative staff that provide an array of services ranging from counseling and health education to comprehensive medical treatment<sup>9</sup>. The Balboa Clinic offers clinical work and can act as the Primary Care Physician for students without additional medical coverage.

<sup>4</sup> According to November 6, 2001 testimony before the State Assembly Committee on Health by the California Teacher's Association, enrollment in nursing schools is down 16%, nursing vacancies are at 10%, and it is expected that within 10 years, 40% of nurses will be 50 years or older.

<sup>5</sup> On December 3, 2002 Governor Davis proposed \$1.9 billion in education spending cuts which could mean that students would have to make do with fewer school nurses. See <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2002/12/03/BA156021.DTL>.

<sup>6</sup> Calculated at approximately 25% of base salary.

<sup>7</sup> California Education Code, Section 49426 and Title 5, California Code of Regulations, Section 80050.

<sup>8</sup> As well as the Bayview Hunter's Point Foundation and the California Endowment.

<sup>9</sup> Phone conversation with Maureen McCarthy 12/11/02. The eleven staff includes a part-time Director, part-time Medical Doctor (8 hours/week), full-time Nurse Practitioner, full-time Registered Nurse, two Mental Health Workers, one full-time and one part-time Health Educator, two Administrative staff, and a Medical Assistant in addition to several graduate student social work interns.



According to Director Michael Baxter, in fiscal year 2001/02 the Balboa Teen Health Clinic had 2,015 nurse and nurse practitioner visits, 2,809 mental health contacts, and 1,695 Health Education contacts<sup>10</sup>.

#### **b. Seven High School Wellness Centers**

*(Source of Funds = DCYF and SHPD)*

The seven Wellness Centers (see Appendix A for locations) were opened during the 2000/01 school year in response to a citywide student survey indicating the need for student access to mental health, substance abuse, and reproductive health services. Students voluntarily seek these services, and may receive referral to primary health care providers. Each Wellness Center has five staff: a Wellness Coordinator<sup>11</sup>, a School Nurse, a Peer Resource Coordinator, a part-time Substance Abuse Counselor and a part-time Mental Health Counselor. Some sites also have a Community Health Outreach Worker. SHPD funds a minimum of 2 nursing days per week at each Wellness Center and each school may allocate additional Department of Children, Youth, and Their Families (DCYF) funding to support more nursing days. In fact, according to Stacey Blankenbaker at DCYF and SFUSD, most Wellness Centers have between three and five nursing days per week that, taken together, served 2,952 non-duplicated students and attended to 1,355 nurse visits last fiscal year.

\$1.4 million of the \$1.9 million total budget for all seven Wellness Centers comes from DCYF and SHPD contributes an additional \$500,000<sup>12</sup>. As federal funding through the Safe School/Healthy Student Initiative (SS/HSI) ended in FY01/02, DCYF expects to increase its funding to \$1.6 million in FY03/04 in part to fund a third day of nursing at the Wellness Centers.

#### **c. School Nurse Referral and Nurse-of-the-Day – All Schools**

*(Source of Funds = SHPD)*

One nurse each day is assigned to staff the Nurse of the Day hotline between 8:00am and 4:00pm. Begun in 1991, last school year (2001/02) the Nurse-of-the-Day hotline handled 361 advice and referral calls from SFUSD schools. School nurses also make appointments to visit schools and provide follow-up and case management as necessitated by the referral.

#### **d. Middle School Healthy School Teams – All 17 Middle Schools**

*(Source of Funds = SHPD)*

Every SFUSD middle school has a Healthy School Team, which is comprised of a Coordinator (a Registered Nurse and/or Social Worker) and four district teachers: a Respect Coordinator, a Health Liaison, a Sexual Minority Youth Liaison, and a Physical Activities and Positive Alternatives Coordinator.

<sup>10</sup> All figures are duplicable visits (one student may be counted more than once) and may include group visits.

<sup>11</sup> Funded by DCYF, these positions are typically filled by individuals holding a MSW, MFT, and/or MPH degree.

<sup>12</sup> Phone conversation with Stacey Blankenbaker 12/16/02. Approximately half of DCYF's funding comes from the Children's Fund and the remainder comes from the General Fund. Also, some of SHPD's direct services are reimbursable through the state Medi-Cal program.



#### **e. Health Education Curriculum – All Schools**

*(Source of Funds = SHPD)*

Finally, SHPD works to integrate health education into SFUSD curricula on topics such as HIV, drug, and tobacco prevention and develops school management plans for flu vaccinations, indoor air quality, and asthma reduction.

#### **f. School Health Center – All 77 Elementary Schools**

*(Source of Funds = SHPD)*

Founded in 1992, the School Health Center provides comprehensive medical screening (such as physical and neuro exams) primarily for students participating in Medi-Cal, Healthy Kids and Healthy Families. Two part-time nurse practitioners see between 150 and 200 students per year during open hours from 9:00am to 2:00pm twice per week.

#### **g. Other Elementary School Services – All 77 Elementary Schools**

*(Source of Funds = SHPD)*

Finally, the eleven elementary school nurses and learning support consultants provide a variety of psychosocial work in elementary schools, including case management, health consultation, checking for head lice, working to reduce absenteeism, strategy modification, behavior modification, and other means of early identification of barriers to academic success.

### **OTHER RELATED PROGRAMS**

There are also a number of related programs geared toward after school activities, violence prevention, and community involvement that do not typically involve school nurses but collectively support the health of the students. These include:

#### **a. Beacon Centers**

*(Source of Funds = Local)*

The San Francisco Beacon Initiative is a public/private partnership that establishes youth/family centers in SFUSD schools. The Beacon Initiative began in 1994 and is based on the widely heralded 1991 New York Beacons program<sup>13</sup>. The eight San Francisco Beacon centers (see Appendices A and B) strive to be community gathering places and are open year-round, after school, in the evenings, on weekends and in the summer.

#### **b. 21<sup>st</sup> Century Community Learning Centers (CLC)**

*(Source of Funds = State and Federal)*

The 21<sup>st</sup> Century CLC program was established and funded by Congress in 1998 to award grants to rural and inner-city schools to enable them to plan, implement or expand projects that benefit the educational, health, social services, cultural and recreational needs of the community. CLCs offer educational (such as tutoring and computer classes) and cultural (such as music, art, theatre, sports, and field trips) opportunities for students after school, during the summer and on

<sup>13</sup> See <http://www.aed.org/news/beacons.html> for more information.



1. The first part of the paper discusses the importance of the study and the objectives of the research. It also mentions the scope of the study and the limitations of the study.

2. The second part of the paper discusses the methodology used in the study. It includes a description of the sample, the data collection methods, and the statistical analysis used.

3. The third part of the paper discusses the results of the study. It includes a description of the findings and a discussion of the implications of the findings.

4. The fourth part of the paper discusses the conclusions of the study. It includes a summary of the findings and a discussion of the implications of the findings.

5. The fifth part of the paper discusses the limitations of the study. It includes a discussion of the limitations of the study and the implications of the limitations.

6. The sixth part of the paper discusses the future research. It includes a discussion of the future research and the implications of the future research.

7. The seventh part of the paper discusses the references. It includes a list of the references used in the study.

weekends. CLC Centers are currently operational at Balboa High School, 16 middle schools (See Appendix B), 20 elementary schools, and 3 K-8 schools and have received \$4,114,434 since the first funds were made available in 1998.

Per the federal "No Child Left Behind Act of 2001", this program is in the process of transitioning to a \$42.5 million state grant formula program<sup>14</sup> administered by the California Department of Education, entitled the "Before and After School Learning and Safe Neighborhoods Partnership Program." The grant program requires a 50% local match and priority is given to elementary, middle, and junior high schools where a minimum of 50% of the pupils are eligible for free or reduced-cost meals through the National School Lunch Program under the U.S. Department of Agriculture.<sup>15</sup>

### c. After School Learning Program

*(Source of Funds = State)*

Authorized by SB1756 in 1998, the After School Learning Program provides academic and literacy support and safe, constructive alternatives for students in kindergarten through ninth grade. Operating from 3:00pm to 6:00pm, this program is offered in 16 of the 17 SFUSD middle schools and 52 SFUSD elementary schools. State funding formulas provide for \$5 per student per day.

### d. School Resource Officers (SROs)

*(Source of Funds = Federal; Last funds authorized in March 2002)*

School Resource Officers (SROs) are San Francisco Police Department (SFPD) Officers who "engage in community policing in and around primary and secondary schools."<sup>16</sup> SFPD currently has 26 SROs in SFUSD middle and high schools (see Appendices A and B). First funded in April 1999 by the U.S. Department of Justice as part of then-President Clinton's Community Oriented Policing Services (COPS) program, funds were made available for three years. The last round of funding was completed in March 2002. However, due to incremental hiring procedures, federal funds may be available for SROs through 2005.

According to SFPD Sergeant Colleen Fatooh, in addition to their community policing functions, SROs teach substance abuse classes, coach sporting activities, tutor students, counsel teachers on de-escalation techniques, lead the Student Assistance Programs, Project Alert and Project Impact and refer over 150 students per year to health and social service professionals.

### e. Gang Risk Intervention Program (GRIP)

<sup>14</sup> Based on each state's share of Title I, Part A funds.

<sup>15</sup> Eligibility depends on income and household size. For example a family of four would have to earn less than or equal to 185% of the federal poverty level (or \$33,485/yr) to qualify for reduced cost meals and less than or equal to 130% of the federal poverty level (or \$23,530/yr) to qualify for free lunches. As the federal poverty level does not account for regional variation in cost of living, San Francisco likely has a lower percentage of households than the nation that qualify for the National School Lunch Program.

<sup>16</sup> [http://www.usdoj.gov/cops/gpa/grant\\_prog/cis/default.htm](http://www.usdoj.gov/cops/gpa/grant_prog/cis/default.htm).



*(Source of Funds = State; 2003/04 Budget Act contains no funding)*

Building on pilot successes in Los Angeles County from 1988 to 1994, the State Legislature passed AB2516<sup>17</sup> in October of 1994 making funds available to county offices of education statewide to address an increase in gang related activity. GRIP activities include after school tutoring, recreation and summer opportunities, professional staff development, student workforce development, and other means of building leadership, parental involvement, and positive cultural identity and respect. GRIP currently operates in four San Francisco middle schools "identified as having students at high risk of becoming involved in gangs"<sup>18</sup> (see Appendix B for a list of middle schools with GRIP programs).

The California Department of Education awarded \$200,000 to San Francisco in fiscal year 2001/2002 and allocated an additional \$3 million to support GRIP programs statewide for fiscal year 2002/2003.

### CONCLUSION

State and federal funding cutbacks for school health programs raise interesting questions for the future of school health in San Francisco's public schools. A few areas for further research might include:

- Are staff currently deployed efficiently and serving the greatest identified health needs? Are there any ways that the Board of Supervisors or the Superintendent of Schools could better facilitate the interaction between the school district and community-based organizations to better meet the needs of students?
- Should these programs be continued at current funding levels and, if so, what source of funds could replace the state and federal monies? For instance, are there any remaining tobacco settlement funds (estimated at approximately \$500 million through 2025) not already allocated to rebuilding Laguna Honda Hospital? Could funds from Proposition 49, the After School Education and Safety Program Act of 2002, be used to support school health programs once allocated in 2004/05? Could the state use lottery funds to support these programs?
- Are there unexplored financing strategies – such as a citywide bond measure to support school health – that are worth bringing to the Citywide School Health Planning Committee to discuss at their next meeting in February 2003?
- Is there state legislation – such as establishing recommended nurse to student ratios – which might help to address the problem?

<sup>17</sup> AB2516/Chapter 722 (Katz). Funds later became available via the 1995-96 Budget Act. See California Education Code sections 58730 et seq.

<sup>18</sup> School Health Programs Department GRIP Fact Sheet, August 2001.



**APPENDIX A: PRIMARY HEALTH AND WELLNESS PROGRAMS AT SFUSD HIGH SCHOOLS**

<b>SFUSD High Schools</b>	<b>2001/02 Enrollment</b>	<b>BOS District</b>	<b>Wellness Center/ Health Clinic</b>	<b>Beacon Center</b>	<b>21<sup>st</sup> Cen. CLC</b>	<b>Healthy Start</b>	<b>Sch. Res. Officers</b>
1. Lowell	2,563	D7	✓				✓
2. Abraham Lincoln	2,404	D2	✓				✓
3. George Washington	2,275	D1	✓	✓		✓	✓(2)
4. Galileo Academy	1,738	D2	✓				✓(2)
5. Phillip and Sala Burton	1,557	D10					✓
6. Thurgood Marshall	993	D10	✓				✓(2)
7. Balboa	951	D11	✓HC		✓		✓
8. Mission	865	D8	✓			✓pl	✓
9. Raoul Wallenberg	653	D2					✓
10. John O'Connell	528	D2	✓				✓
11. International Studies	470	D10				✓pl	✓
12. School of the Arts	393	D7					
13. Gateway Charter	386	D5					✓
14. Leadership Charter	346	D11					✓
15. Newcomer	326	D2					✓
16. Independence (Alternative)	321	D4					✓
17. Downtown (Continuation)	289	D9					
18. Ida B. Wells (Continuation)	274	D5					✓
19. Life Learning Academy Charter	52	D6				✓pl	✓
<b>High School Totals</b>	<b>18,387</b>	<b>-</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>20</b>

HC = Balboa Teen Health Clinic is funded by the Department of Public Health and offers more comprehensive health services than the seven Wellness Centers.

pl = currently in the planning stages.

*SOURCE: California Department of Education, Educational Demographics Unit  
and SFUSD School Health Programs Department*





**APPENDIX B: PRIMARY HEALTH AND WELLNESS PROGRAMS AT SFUSD MIDDLE SCHOOLS**

<b>SFUSD Middle Schools</b>	<b>2001/02 Enrollm ent</b>	<b>BOS District</b>	<b>Beacon Center</b>	<b>21<sup>st</sup> Cen. CLC</b>	<b>After School</b>	<b>Sch. Res. Officers</b>	<b>GRIP</b>	<b>Healthy Start</b>
1. A.P. Giannini	1,306	D4	✓	✓	✓	✓		
2. Herbert Hoover	1,301	D7				✓		
3. Presidio	1,205	D1		✓	✓			
4. Marina	1,029	D2		✓	✓	✓		✓
5. Aptos	820	D7		✓	✓	✓		✓
6. Roosevelt	794	D2		✓	✓			
7. James Denman	741	D11	✓	✓	✓	✓ <sub>pt</sub>		✓
8. Luther Burbank	643	D10		✓	✓	✓	✓	✓
9. Horace Mann	608	D9		✓	✓		✓	
10. Everett	589	D8	✓		✓			
11. Francisco	558	D3		✓	✓	✓ <sub>pt</sub>		✓
12. Visitacion Valley	538	D10	✓	✓	✓	✓		
13. James Lick	531	D8		✓	✓		✓	
14. Dr. Martin Luther King, Jr.	528	D10			✓			
15. Benjamin Franklin	442	D5	✓	✓	✓			
16. Enola D. Maxwell (Potrero Hill)	292	D10		✓	✓		✓	
17. Gloria R. Davis	254	D10	✓		✓			✓
<b>Middle School Totals</b>	<b>12,179</b>	<b>-</b>	<b>6</b>	<b>13</b>	<b>16</b>	<b>8</b>	<b>4</b>	<b>6</b>

**NOTES:**

- pt = part-time
- In addition to the 18,387 students in SFUSD high schools and 12,179 in SFUSD middle schools, there are also 3,582 students in SFUSD K-8 schools and 26,878 students in the 77 SFUSD elementary schools.
- All SFUSD high schools also have Health Promotion Committees, all SFUSD middle schools have Healthy School Teams and Middle School Coordinators, and all SFUSD middle and high schools have Positive Alternatives activities and a Health Education curriculum.

*SOURCE: California Department of Education, Educational Demographics Unit  
and SFUSD School Health Programs Department*

# THE HISTORY OF THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT  
TO THE PRESENT TIME  
BY  
JOSEPH NEALE  
OF THE BOSTON BAR  
IN TWO VOLUMES  
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J. NEALE, 1822.  
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J. NEALE, 1822.

## APPENDIX C: CALIFORNIA SCHOOL NURSES CREDENTIAL REQUIREMENTS

### **A Brief History**

Prior to 1945, no formal credential was required for school nursing services. Following World War II, school nurses were required to have a public health nurse certification, a Bachelor of Science in Nursing, and/or a baccalaureate degree and 36 semester units of specified undergraduate work.

The "Fisher Act", passed in 1961 and fully enforced in 1964, added the additional requirement that school nurses complete a school nursing internship program. According to the California Commission on Teacher Credentialing (CTC), this could include an internship program, "under the joint supervision of a higher education institution and a public health department or school district, or, specific coursework equal to approximately one year of post-graduate study to include a supervised school nurse field experience."

The "Ryan Act"<sup>19</sup>, passed in 1970 and implemented in 1974, further altered the credential requirements, renaming it the "Health Services Credential: School Nurse", eliminating the requirement for public health nurse certification, and allowing for the issuance of a 'preliminary' credential for five years during which time further coursework was pursued<sup>20</sup>.

### **Current Requirements for School Nurses**

To qualify for the professional school nurse credential today ("Health Services Credential: School Nurse"), state law<sup>21</sup> requires that applicants:

1. Have a baccalaureate or higher degree from a regionally-accredited college or university<sup>22</sup>,
2. Hold a valid Registered Nurse (RN) license issued by the State of California, and
3. Complete a CTC-approved school nurse program<sup>23</sup> comprised of coursework equivalent to at least one year (a minimum of 24 semester units) of post-baccalaureate study and two years of school nurse practice. Applicants that meet only the first two requirements can apply for a five-year 'preliminary' credential while they seek additional coursework and experience<sup>24</sup>. (NOTE: This last requirement represents a higher level of education than that required for hospital, clinic, or public health Registered Nurse positions.)

<sup>19</sup> The California Teacher Preparation and Licensing Law of 1970.

<sup>20</sup> For a complete history of school nurse credentialing programs in California, see *Standards of Quality and Effectiveness for Programs of Professional School Nurse Preparation in California*. California Commission on Teacher Credentialing. Revised November 1994.

<sup>21</sup> California Education Code, Section 49426 and Title 5, California Code of Regulations, Section 80050

<sup>22</sup> In California, there are over 70 community college RN programs, 13 California State University (CSU) programs, one University of California (UC) program, and nine private college and university programs.

<sup>23</sup> According to the California School Nurses Organization, Credentialed School Nurse programs graduate 100-125 students per year from 7 CSU campuses, 1 UC campus, and 2 private universities.

<sup>24</sup> See the California Commission on Teacher Credentialing (CTC) at <http://www.ctc.ca.gov/credentialinfo/leaflets/cl380.html> for more details.



In order to teach health classes in schools, these state laws require school nurses to complete the three requirements listed above as well as:

1. Pass the California Basic Education Skills Test (CBEST), and
2. Complete a professional preparation program for the Special Teaching Authorization and obtain the recommendation of the California college or university where the program was completed.

### **Authorized School Nurse Activities**

Holders of the preliminary and professional clear School Nurse Services Credential shall be authorized to perform the following services:

- Conduct immunization programs pursuant to California Education Code, Section 49403, of the California Code of Regulations
- Assess and evaluate the health and developmental status of pupils
- Interpret the health and developmental assessment to parents, teachers, administrators, and other professionals directly concerned with the pupil
- Design and implement individual student health maintenance plans, incorporating plans directed by a physician
- Refer the pupil and parent or guardian to appropriate community resources for necessary services
- Maintain communication with parents and all involved community practitioners and agencies to promote needed treatment and secure reports of findings pertinent to educational planning
- Interpret medical and nursing findings appropriate to the student's individualized education program and make recommendations to professional personnel directly involved
- Consult with, conduct in-service training for, and serve as a resource person to teachers and administrators
- Develop and implement the health education curriculum
- Act as a participant in implementing a comprehensive health instruction curriculum for students
- Counsel and assist pupils and parents in health-related and school adjustment services
- Teach health-related subjects under the supervision of a classroom teacher<sup>25</sup>

<sup>25</sup> See the California Commission on Teacher Credentialing at <http://www.cctc.ca.gov/credentialinfo/leaflets/cl380.html>







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**DRAFT - LEGISLATIVE ANALYST REPORT**

**To:** Members of the Board of Supervisors  
**From:** Adam Van de Water, Office of the Legislative Analyst  
**Date:** January 30, 2003  
**RE:** **Business Improvement Districts (File # 021934)**

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**SUMMARY AND SCOPE OF WORK**

Supervisor Newsom, through the Board, requested that the Office of the Legislative Analyst (OLA) 1) identify the purpose and history of any existing Business Improvement Districts (BIDs) in the City and County of San Francisco; 2) identify and describe the goals and major accomplishments of successful BIDs in other jurisdictions nationwide (preferably major metropolitan areas); and 3) survey these jurisdictions for best practices and analyze the feasibility of adopting those practices in San Francisco.

**EXECUTIVE SUMMARY**

Business Improvement Districts (BIDs) have grown tremendously in the past decade thanks to new state laws authorizing their formation and an increasing recognition from the business community that collaborative arrangements such as BIDs are in their own long-term commercial self-interest.

BIDs are formed by a majority of property owners within a district, with approval from the Board of Supervisors and in accordance with state law. BIDs are private-public partnerships wherein property or business owners elect to assess themselves in exchange for the authority to spend the difference on agreed upon improvements and activities contained in its management plan. This typically takes the form of capital improvements (new trees, benches, or banners), increased maintenance (additional graffiti removal, litter collection or street sweeping), increased security (either through direct collaboration with the police department or through privately financed 'ambassadors'), and/or additional marketing or promotional events.

San Francisco currently only has one BID – the 10 blocks surrounding Union Square. However, the Mayor's Office of Economic Development and the Small Business Commission are currently seeking a consultant to produce Business Community Assessment materials and conduct research that would facilitate other BIDs to form in San Francisco.

BIDs in New York, Denver, Philadelphia, and elsewhere have demonstrated innovative ways of addressing the problems of public accountability, homelessness, pedestrian accessibility, and high vacancy rates.

This paper reviews the experiences of these BIDs and concludes that, given the proper conditions, they can be positive local forces of economic development.

### BACKGROUND

Business Improvement Districts (BIDs) are designated areas where a majority of business or property owners elect to pay additional property or business taxes in exchange for services not currently provided by the city. In the words of a 1996 London School of Economics paper, *The motivation for property owners to establish a BID and thereby impose a compulsory levy on themselves is that the expected commercial return will exceed their personal contribution...In promoting their commercial self-interest, property owners will be prepared to invest in their surroundings to the extent that it benefits their property. In practice this means that property owners will only be willing to join a collective scheme – such as a BID – if there is agreement on which aspects of local environmental decline need to be tackled and how this should be approached.*<sup>1</sup>

The city collects all assessments from businesses or property owners and returns them to the BID's owner's association to spend in accordance with a management plan approved by the Board of Supervisors. According to a June 1995 survey of 23 BIDs nationwide by the Pittsburgh Downtown Partnership, the average total budget for a BID was \$2 million, of which 84 percent was obtained through assessing property owners.<sup>2</sup> While the services provided depend on the needs of the area, typical BID services include maintenance, security, signage, parking and transportation management, social services, special event coordination, tree planting or other capital improvements, marketing and promotion, long-range visioning, and business attraction and retention.

According to the Urban Land Institute, the first known BID – Bloor West Village in Ontario, Canada – appeared in 1965 and the first U.S. BID appeared in New Orleans in 1975. BIDs have experienced a surge in popularity since that time, particularly in the 1990s, and there are now an estimated 1,500 nationwide.<sup>3</sup>

In California, BIDs are governed by two state laws: the Parking and Business Improvement Area Law of 1989 (which allows taxes to be levied on businesses within a district) and the Property and Business Improvement District Law of 1994 (which allows taxes to be levied on owners of real property within a district)<sup>4</sup>. These laws set the general procedures for establishment, assessment, and public review of BIDs. Proposition 218, approved by the California voters on

<sup>1</sup> Houston, Lawrence Jr. *BIDs: Business Improvement Districts*. Washington D.C. The Urban Land Institute, 1997, p.16.

<sup>2</sup> Houston, p. 37.

<sup>3</sup> Houston, p. 7, 24.

<sup>4</sup> California Streets and Highways Code Sections 36500-36551 and 36600-36671.

November 6, 1996, which became part of the California Constitution (Articles XIII C and XIII D) adds additional requirements for establishing such assessment districts.

The extent of the city's financial involvement in the creation of a BID is somewhat in question. While no direct city funds are required to establish a BID, sections 36624 and 36625 of the Property and Business Improvement District Law of 1994 require, "a finding that the property within the business and improvement area will be benefited by the improvements and activities funded by the assessments proposed to be levied." In addition, Proposition 218 mandates that property owners may only be assessed for "proportional special benefit" conferred on the owner's property. BID sponsors must complete an engineer's report that determines the extent of this special benefit. If this report finds a difference between benefits specific to property in the district and general benefits to the city as a whole, the funding for this difference must come from a source other than the assessments. Typically, though not necessarily, the city pays this benefit.

For a description of the specific legislative steps required for the Board of Supervisors to create a new BID under the 1994 law, please see Appendix A: The Formation of BIDs in San Francisco.

### SAN FRANCISCO'S ONLY BID: UNION SQUARE

Motivated by "private sector control and accountability", an "equitable distribution of costs and benefits" and the need for "a cleaner, safer and more vibrant atmosphere [that] would directly increase sales and property values,"<sup>5</sup> 80 percent of property owners signed the initial petition to the Board of Supervisors to establish the Union Square BID.

In January 1999<sup>6</sup>, the Board of Supervisors approved the property owners' petition to form the Union Square BID. Since it became operational in July 1999, the Union Square BID has collected an average of \$790,000 per year from 65 property owners paying \$65 per linear foot of sidewalk frontage for 91 properties in the approximately 10 block district. Adding the \$200,000 annual contribution from the Department of Public Works for steam cleaning (in addition to the city's baseline services for street maintenance) as well as interest and other grant income, the Union Square BID operates on an annual budget of just over \$1 million. Per Section 36622 of the California Streets and Highways Code, the Union Square BID may only levy assessments for a maximum of five years. At the end of this 5-year time period (this will occur on June 30, 2004 for the Union Square BID) the BID must repeat the petition process in order to reauthorize the district.

The BID owner's association contracts with the not-for-profit Union Square BID, Inc. and the San Francisco Police Department (SFPD) to provide:

<sup>5</sup> "Union Square Business Improvement District Plan," October 1998, p. 2.

<sup>6</sup> Resolution declaring intention to establish the BID was passed 12/8/98 (File #98-1844), the resolution establishing the 13-member Board of Advisors was passed 12/24/98 (File #98-1927), the public hearing was held 1/25/99 (File #99-0118), and the resolution establishing the assessment district was recorded in the Clerk's Office 2/8/99 (File # 98-2135).

- Public Safety – 11 customer service ‘Ambassadors’ and one SFPD 10B Officer work to assist visitors with directions, transportation information, and emergency responses; reduce aggressive panhandling, illegal vending, street gambling, and drinking in public; assist with medical needs, and intoxicated or service resistant individuals; and deter crime as the “eyes and ears” for local law enforcement 12 to 13 hours per day, 5 days per week. According to its original management plan from October 1998, the Union Square BID allocates approximately 52% of its assessment revenues to public safety.
- Maintenance – 15 “Take Away Graffiti and Grime” (TAGG) Team members sweep and steam clean the sidewalks, remove graffiti and pickup litter 13 hours per day, 5 days per week. According to the management plan, the Union Square BID allocates approximately 29% of its assessment revenues and 100% of the city’s steam cleaning grant funds to maintenance.

The BID dedicates the remaining 19% of its assessment budget to management, operations, and office supplies.

#### CURRENT EFFORTS TO CREATE ADDITIONAL BIDS IN SAN FRANCISCO

The Mayor’s Office of Economic Development (MOED) issued a “Request for Qualifications for Consulting Services for Business District Revitalization” October 14, 2002. This RFQ intended to assess if BIDs could be more broadly used in San Francisco, and sought consulting services (in an amount not to exceed \$10,000) to undertake several tasks including:

1. Review of City policies regarding business district revitalization including, but not limited to Business Community Assessment District formation and administration.
2. Review of state legislation and its applicability to the City/County of San Francisco.
3. Recommend ways an interested neighborhood or community business district can work with the City on developing a successful revitalization strategy.
4. Develop a Business Community Assessment kit to be distributed to motivated business and neighborhood groups, which would clarify the City’s commitment and available resources to support these efforts.
5. Recommend new enabling legislation for the City to facilitate business district and neighborhood revitalization efforts.

The Small Business Commission has allocated up to \$70,000 in implementation funds to support the formation of BIDs, and is working in partnership with MOED on the project. As of the submission deadline November 12, 2002, MOED had received three responses to the RFQ. According to MOED Director Leamon Abrams no contractor had been selected as of the week of January 13, 2003.

## OTHER JURISDICTIONS

### **New York's Experience: A Qualified Success**

The New York metropolitan area has largely turned to BIDs as a means of revitalizing its downtown centers. According to the Center for Urban Research and Policy at Columbia University (CURP), in 1997 there were 40 BIDs in New York City with a total annual assessment of over \$46.1 million<sup>7</sup>. This budget supports a range of services including security, sanitation services, homeless outreach, capital improvements, community relations, and other tourism services.

For example, in the first seven years of its existence and with its over \$6 million annual budget, the Times Square BID has,

- hired 45 public safety officers connected by radio to the New York Police Department to patrol the streets 14 hours per day, seven days per week,
- upgraded street lighting to highlight historic buildings and improve safety,
- hired 50 sanitation workers to sweep, scrub and paint 16 hours per day, seven days per week,
- raised \$2.5 million over three years from federal and state agencies for a pilot project to address the needs of "service resistant homeless"<sup>8</sup>,
- developed a master plan for traffic islands in Times Square and funded studies to ease pedestrian congestion on the sidewalks,
- developed a comprehensive Times Square Visitors Center and hired 10 counselors speaking nine different languages to staff it, and
- coordinated and produced the annual New Year's Eve celebration which annually draws over half a million people.

In a professional survey of members conducted by the Times Square BID prior to reauthorization, 93 percent of all respondents expressed support for contract renewal and more than 86 percent saw overall improvement in Times Square as a place in which to work.

Despite these impressive achievements, CURP researchers concluded that New York BIDs, taken as a whole, have achieved varying levels of success. While they concluded that, "under the proper organizational and environmental conditions, BIDs can be effective agents of economic development"<sup>9</sup> they also found that, "their democratic deficits pose significant problems for citizens and city government."<sup>10</sup> Of particular concern was:

<sup>7</sup> Edward T. Rogowsky and Jill Simone Gross, "To Bid or Not to Bid? Economic Development in New York City" (1997) online at <http://sipa.columbia.edu/CURP/resources/metro/v01n0402.html> called the spread of BIDs in New York "almost epidemic."

<sup>8</sup> See [http://www.timessquarebid.org/the\\_bid/6\\_years/index.htm](http://www.timessquarebid.org/the_bid/6_years/index.htm). "The Times Square Consortium for the Homeless (TSC) ... provides therapy on the streets to mentally ill/substance abusing homeless people by an interdisciplinary team of clinical social workers, nurses and drug counselors. Project Renewal and Samaritan Village are the lead agencies with St. Luke's hosting a small respite center and the BID continuing its role as facilitator of TSC."

<sup>9</sup> "Business Improvement Districts (BIDs) and Economic Development in New York City" by Edward T. Rogowsky, Ronald Berkman, and Jill Simone Gross; CUPA Working Paper Series 1997.

<sup>10</sup> Rogowsky and Gross, "To Bid or Not to Bid? Economic Development in New York City."



- (1) a potential lack of democratic accountability and the degree to which BIDs represent the entire community rather than simply property owners;
- (2) possible inequality between the public and private partners as, once created, BIDs can utilize the city's tax collecting powers without requiring public accountability measures; and
- (3) possible "balkanization" in New York City between BID and non-BID areas leading to an overall weakening in economic vitality and the delivery of basic public services citywide.

The researchers therefore warn, "it is essential that in formulating, constructing and utilizing BIDs as tools of urban revitalization, we ensure that these broader democratic issues are addressed. The construction of a comprehensive framework for the oversight and evaluation of a BID is critical to ensure representation, accountability, and equity."

### **Downtown Denver**

With 120 blocks of commercial property in its boundaries, the Downtown Denver BID is one of the largest assessment districts in North America.<sup>11</sup> In 1992, owners of 61 percent of the land area voted to replace the existing Mall Management District with the new BID citing increased flexibility under new Colorado law for BID operations, financing and governance<sup>12</sup>. Today seven members of the Board of Directors (representing large and small property owners, upper and lower downtown, retail, office space, and vacant lots) work with six "ex officio liaisons" (Denver's Public Works Manager, the Chief of Police, the sergeant in charge of the Denver Police Department's downtown unit, a Denver City Council member, the operations manager of the free mall shuttle provided by the Regional Transportation District, and a representative of the Downtown Denver Residents Organization) to manage the annual budget of just over \$2 million.

In addition to the standard services of maintenance, capital repairs, security, marketing and economic development, the Denver BID provides research information to its members on everything from commuter behavior and pedestrian activities to retail development strategies and office market analyses.

As one of the older management districts in the country, the Denver BID has experienced a number of successes, including:

- helping to develop the internationally renowned architect I.M.Pei-designed 16-block pedestrian and transit mall which in 2002 shuttled 52,000 riders and ranked number one as a tourist attraction in a survey conducted by the Denver Metro Convention & Visitors Bureau;
- working to open the 350,000-square foot Denver Pavilions retail and entertainment center in 1998 on two blocks facing the mall;
- providing support for the \$25 million renovation of a second two-block retail center to be completed later this year;

<sup>11</sup> Houstoun, p. 152.

<sup>12</sup> Houstoun, p. 151. The MMD was limited by city ordinance to providing services only along the 16<sup>th</sup> Street pedestrian mall, to assessing only land area, to having a maximum of five board members, and having the Director of the Denver Public Works Department act as chairman of the board.

- allocating approximately \$1 million per year for the maintenance and capital improvement of the 16<sup>th</sup> Street pedestrian mall; and
- increasing funding for the Denver Police Department's Downtown Motorcycle Unit, Mounted Patrol Unit, and Neighborhood Patrol Officers by providing them with additional pagers, motorcycles, cars, and other equipment.

## BEST PRACTICES

### **Setup/Organization**

Successful BIDs depend on the active involvement of its member businesses and property owners. In a booklet issued after establishing 40 BIDs, the New York City Department of Business Services stated,

*No BID effort will succeed without the active support of a local sponsoring organization which is willing to undertake the work. This group must have extensive knowledge of the community and be skilled at organizing and gaining the support of property owners and merchants. It should have a history of involvement with the community, a reputation for seeking positive change within the community, and a vested interest in the long-term economic stability of the area*<sup>13</sup>.

Ways of encouraging the development of such an organization include holding periodic meetings, distributing mailings, utilizing local media, and hiring a private consultant with experience in BID development.

### **Public Accountability**

There are several ways that BIDs can increase public accountability. The current management plan with the Union Square BID requires that the BID annually submit and get approval from the Board of Supervisors of an operating report and that at the end of five years and every 10 years thereafter they repeat the approval process outlined in Appendix A. Also, per state and local law, all BID owner's associations in San Francisco – though not necessarily the BID in its entirety – must comply with the requirements of the Sunshine Ordinance, the Ralph M. Brown Act, and the California Public Records Act as they relate to all district activity documents and when matters within the subject matter of the district are heard, discussed, or deliberated.<sup>14</sup> Finally, upon any finding of fund misappropriation, malfeasance, or legal violations, the Board may, after holding a hearing on the issue, adopt a resolution to disestablish the BID.

In addition, some BIDs have taken it upon themselves to improve their relationship with local government entities and the community. Recognizing that “BIDs are inherently undemocratic”,<sup>15</sup> former Times Square BID Director Gretchen Dykstra and her staff kept a mailing list of over 13,000 property owners, commercial tenants, retail establishments, registered voters, government officials, community board members, and a wide array of interested parties. This list became the

<sup>13</sup> Houstoun, p. 40.

<sup>14</sup> S.F. Administrative Code Section 67.24(e), Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, and Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, respectively.

<sup>15</sup> Houstoun, p. 126.

basis for publishing its quarterly newsletter, announcing board nominations, and informing stakeholders of the annual public meeting and special events. Other BIDs – such as Denver, New Brunswick, NJ, and Lincoln Road in Miami Beach – have placed local elected officials or departmental representatives directly on the Board of Advisors or owner's association.

### **Homelessness/Panhandling**

One area where BIDs may come into conflict with city goals is the area of homelessness. BID directors are continually looking for innovative ways to reduce homelessness within their districts and critics have voiced opposition to privately financed 'ambassadors' forcing homeless persons and panhandlers into other neighborhoods.

One of the more innovative and successful examples in this regard comes from Manhattan. The Times Square BID was the largest private contributor to the innovative \$1.2 million Midtown Community Court, which arraigns approximately 15,000 misdemeanor and violation offenses each year (see OLA report: "The Community Courts Model and Feasibility of Implementation in San Francisco" on-line at <http://www.sfgov.org/bdsupvrs/leganalyst/reports/commcourts.htm> for more details). As a result of the Midtown Community Court, arrest-to-arraignment time is down 38%, more offenders receive community service (up 138%) and/or drug treatment sentences than before, crime has been reduced, and 75% of defendants now complete their community service sentences: a 50% increase in compliance.<sup>16</sup>

### **Pedestrian Friendliness**

The Center City BID in Philadelphia made several changes to the look and feel of its downtown streets to encourage safety and attract visitors. The BID lobbied the city to change regulations that would allow see-through security gates to replace the solid steel gates common in most downtowns, contributing to a less austere storefront after hours. The BID also used its assessment revenues to issue a \$21 million bond issue and secure a \$5 million match from the city to make capital improvements. The BID used this bond money to replace overhead streetlights illuminating the street with pedestrian scale fixtures that bring the light to the sidewalk and eliminate dark spots, install pedestrian maps and directional signs, plant trees and erect new banner poles, and rebuild deteriorating curbs and sidewalks.

However, it should be noted that because Central City's capital improvement bonds were issued based on the BID property tax assessment, the debt limit counts against the city's overall debt obligation, which, depending on the size of the bond issuance, could reduce the city's ability to make future investments.

### **Vacancy Rates**

The Center City BID in Philadelphia lobbied the city to accelerate and simplify the process of rehabilitating older commercial buildings with vacancy rates in some areas as high as 30 or 40 percent. The BID promoted low-interest financing and transfers of development rights and, in June 1997 won expansion of real estate tax abatement from the city to help expedite the

<sup>16</sup> *The Midtown Community Court*, 1997. Times Square BID. As referenced in Houston, p. 132.

conversion of these buildings to include modern amenities and comply with municipal building codes.

### CONCLUSION

Empirical research from around the country supports the finding that carefully designed Business Improvement Districts can have positive economic development effects within their boundaries. Motivated by their own commercial self-interest, property owners in established BIDs have invested in capital improvements, reduced crime, litter and graffiti, and improved their properties' public access and resale values.

Evidence suggests that the successes experienced in Union Square, Times Square, Downtown Denver and City Center Philadelphia could be replicated in certain neighborhoods in San Francisco. These neighborhoods could include Chinatown, North Beach, Northeast Mission (all three of which have contacted the Mayor's Office of Economic Development requesting info on the formation of a BID), Fisherman's Wharf, the Castro, and South of Market Street near Pacific Bell Park.

However, several conditions must be met to ensure successful BID formation. These include, but are not necessarily limited to:

1. The property owners and leasing businesses must be fully committed to the costs and benefits of establishing the BID and the owner's association must make concerted efforts to involve all stakeholders in the major decision-making processes throughout the life of the BID.
2. The Board of Supervisors must use diligence in approving the initial management plan of any proposed BID and ensure that the proposed improvements and activities are consistent with the broader city goals of homelessness policy, police enforcement of panhandling and unlicensed vending, capital improvements, and street sweeping and repair.
3. The Board of Supervisors must carefully consider the costs to the city of establishing a BID including potential support for up-front consulting costs and any potential general benefit expenditures that the city may be asked to provide.

## APPENDIX A: THE FORMATION OF BIDS IN SAN FRANCISCO

From the initial drafting of the management plan and petition to the operational beginning of a BID, the national average time spent on the organizational process is approximately a year and a half.<sup>17</sup> In addition to the public steps outlined below, BID organizers must design the management plan in accordance with Section 36622, establish an assessment formula, create the district boundaries and circulate a petition and a copy of the management plan to district businesses or property owners seeking their support. This is typically undertaken by a hired consultant and must occur prior to the Board's passage of a resolution of intention to establish the BID.

Approximately 60 to 80 percent of all BIDs nationwide are property- rather than business-based<sup>18</sup>. Thus, the applicable law is usually the "Property and Business Improvement District Law of 1994" contained in the California Streets and Highways Code Sections 36600 et seq. To establish a new BID under this law, the Board of Supervisors must<sup>19</sup>:

- (1) Receive signed copies of the petition circulated as above from property owners who will pay more than 50 percent of the assessments proposed to be levied;
- (2) Adopt a resolution of intention to establish the BID. This must include (a) a brief description of the proposed activities and improvements, the amount of the proposed assessment, and a description of the exterior boundaries of the district, and (b) a time and place for a public hearing on the establishment of the BID within 90 days of the resolution's adoption.
- (3) Notice its intention to establish the BID in accordance with Section 53753 of the Government Code;
- (4) Hold a public hearing on the establishment of the BID within 90 days of the resolution's adoption; and
- (5) Adopt a proposed resolution of adoption (if the Board makes substantial changes to the originally proposed assessment) or a resolution establishing the district (if the Board does not make substantial changes). This resolution must contain all of the information included in paragraphs (1) to (8) of Section 36625 (including descriptions of the proposed activities, assessment type, and boundaries as well as a copy of the copy of the engineer's report).

Once established, the Board:

- (1) May create separate benefit zones within the BID with separate assessment rates;
- (2) May classify properties for purposes of determining the benefit to the owners of the proposed improvements and activities<sup>20</sup>;
- (3) May execute baseline service contracts that would establish levels of city services that would continue after a BID is formed;
- (4) Upon written request of the owners' association, may modify the management district plan after (a) adopting the required resolution of intention stating the proposed modification, (b)

<sup>17</sup> Houstoun, p. 45.

<sup>18</sup> Houstoun and phone interview with Union Square BID Director Leigh Ann Baughman.

<sup>19</sup> See section 36620.

<sup>20</sup> Properties zoned solely for residential or agricultural use are presumed not to benefit from the improvements and activities and therefore are exempted from assessment.

conducting one public hearing on the proposed modification, and (c) adopting a resolution determining to make the modification;

- (5) May approve or modify the BID's annual report<sup>21</sup> and adopt a resolution of intention to levy an annual assessment for that fiscal year; and,
- (6) Upon either Board findings of fund misappropriation, malfeasance, or legal violations or upon written petition from property owners paying more than 50 percent of assessments, may adopt a resolution of intention to disestablish the area, and after holding a hearing on the disestablishment, may adopt a resolution to disestablish the BID.

The owner's association, in return, must:

- (1) File a report for each fiscal year of operation after the first year to be filed with the Clerk of the Board which includes, (a) any proposed boundary changes, (b) the improvements and activities to be provided for that year as well as their costs, (c) the method and basis of levying the assessment, (d) the amount of any surplus or deficit revenues to be carried over from the prior year, and (e) the amount of any contributions to be made from sources other than assessments.
- (2) In order to renew the BID after its first five years, follow the procedures for establishment of a BID outlined above.

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<sup>21</sup> See file #021450 approved 1/13/03 for the most recent approval.







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## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Office of the Legislative Analyst  
DATE: February 11, 2003  
SUBJECT: Hospital Regulatory Requirements (File No. 021227)

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100 Larkin Street Govt Information Center

### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor Gonzalez) requesting the Office of the Legislative Analyst to survey other comparable municipalities on regulatory requirements imposed on hospitals that reduce their services. These requirements could be public notification, fees or other mitigation measures.

### EXECUTIVE SUMMARY

Our office conducted an expedited but thorough survey of other jurisdictions and their requirements on hospitals that reduce services. These included two counties in California (Alameda and Los Angeles) and the Commonwealth of Massachusetts.

For the purposes of this analysis, public hospitals are established, operated or maintained by the State or government agency, while private hospitals refers to those which are not established, operated or maintained by the State or government agency. It is important to note that all hospitals, whether public or private, must be licensed by the State Department of Health Services.<sup>1</sup>

We discovered that private hospitals in San Francisco are already subject to the strictest public notice and hearing requirements in the State. That is, they are subject to the City's Community Health Care Planning Ordinance (Prop Q). We also discovered that the Commonwealth of Massachusetts, unlike San Francisco, requires all hospitals (both public and private) to submit written plans for assuring access to services following a hospital's closure of those services. In addition, within one year of closure of the services, state officials in conjunction with the hospital must prepare a post closure report evaluating the extent to which access to the services was preserved. The advantages and disadvantages of this course of action, as well as others, are discussed in the Options section of this report.

Lastly, we drafted several "suggested courses of action" for the Board of Supervisors to consider when adopting new or revising existing requirements on hospitals. These are presented in order of most, to least, feasible in San Francisco.

<sup>1</sup> California Code of Regulations, Title 22, Section 70103.

## CURRENT LAW

The following is a brief summary of relevant State and local laws with respect to hospitals that reduce their services.

### **A. The Beilenson Act**

Section 1442.5 of the California Health and Safety Code, otherwise known as the "Beilenson Act", requires that before closing, eliminating or reducing its level of medical services, or the leasing, selling or transferring management of a county hospital, the Board of Supervisors must provide public notice.<sup>2</sup> This notice must be posted at the entrance to all county health care facilities and announce public hearings to be held by the Board prior to its decision to proceed. The notice must be posted not less than fourteen (14) days prior to the public hearings. The notice must also contain a list of the proposed reductions by facility and service, and include the amount and type of each proposed reduction, the expected savings, and the number of persons affected.

### **B. The Community Health Care Planning Ordinance**

In 1988, San Francisco voters approved Proposition Q, "The Community Health Care Planning Ordinance", which requires that before any private hospital or clinic reduces its levels of services, or before any hospital or clinic leased, sold or transferred its management, it must post a public notice of on the building and mail a copy of the notice to the San Francisco Health Commission.<sup>3</sup> This notice must be posted and mailed not less than ninety (90) days before any change is made. The notice must contain a detailed list of the proposed changes and the number of patients and employees who will be affected by the change. The ordinance also requires that the Commission decide, based on public hearings, whether the proposed change will have a negative impact on the health care service to the community and to explore other ways of providing the services that are to be reduced. Notably, if a hospital fails to comply with the public notice requirements of the ordinance, the Commission may request the City Attorney to seek a court order restraining the hospital from reducing services until the hospital complies.<sup>4</sup>

## OPTIONS

The following are brief descriptions of options, based on our research, which may be used when hospitals reduce their services.

### **A. Consider Enhancing the Existing Public Notification Requirements**

Hospitals in San Francisco are already subject to some of the strictest public notification and hearing requirements in the country. As noted above, the Beilenson Act requires that before reducing the level of services at a "public" hospital, the Board of Supervisors must provide public notice and hold public hearings. The notice must be posted not less than fourteen (14) days prior to the public hearings. "Private" hospitals, on the other hand, are subject to the requirements of San Francisco's Community Health Care Planning Ordinance (Prop Q). Under this law, private hospitals must also provide public notice and hold public hearings. The notice must be posted not less than ninety (90) days before any change is made. Within this context, it is no

<sup>2</sup> California Health and Safety Code, Section 1442.5.

<sup>3</sup> San Francisco Charter, Appendix Q.

<sup>4</sup> San Francisco Health Commission, Procedures for Public Hearings to Determine Whether the Proposed Change Will or Will Not Have a Detrimental Impact on the Health Care Service of the Community, Page 4.

necessary for the Board of Supervisors to adopt any more public notification and hearings requirements. However, the Board could place a measure on the ballot to amend Prop Q increasing the advance public notification requirement on private hospitals from 90 days to 120 days (for instance). Extending the 90-day period would certainly give patients more time to access alternative services. However, the City Attorney's Office advises that it may also jeopardize a hospital's license and compromise patient care as hospital staff typically leave early on in the 90-day period and seek employment elsewhere.<sup>5</sup> Therefore, the Legislative Analyst concludes that this approach would be too risky for hospitals and only minimally beneficial to their patients.

## **B. Require Quarterly or Semi-Annual Financial Reports**

Another approach is to require private hospitals to submit quarterly or semi-annual financial reports to the Board of Supervisors. Most hospitals release only annual reports. Government health officials state that these reports are often published too late after the fiscal year to be considered useful. The advantage to requiring quarterly or semi-annual reports is that they would serve as an early warning system, alerting the Board of Supervisors to a troubled hospital. The Board in turn would have the necessary time to review reports, identify troubled hospitals and explore ways of providing the services that might be reduced. As noted above, private hospitals in San Francisco must currently give 90 days public notice before any change is made. Adopting this approach would have fiscal impact, albeit minimal, to the City. It is likely that the Controller's Office would be designated to review these reports and report their findings to the Board. One disadvantage to this approach is that any negative quarterly or semi-annual financial reports could harm a hospital's image, even deter patients and business. However, this is already true in cases when a hospital releases a negative annual report. Another disadvantage is that it would disparately impact hospitals doing business in San Francisco. It is unclear whether this requirement would cause hospitals to move from the area. Therefore, the Board of Supervisors may want to draft a motion urging the State Legislature, as the primary regulator of hospitals, to require all hospitals statewide to submit quarterly or semi-annual financial reports.

## **C. Impose Fines for Violations of Proposition Q**

The City does not currently fine private hospitals for violating the provisions of Prop Q. Our office researched, but did not discover, any jurisdictions that impose these types of fines. This may be because it is unclear how much leverage government has over hospitals that are financially distressed (as opposed to those that are reducing services merely to increase profits). The City Attorney's Office advises that due process requires that "civil penalties" (fines) be proportional to harm inflicted and that it may be difficult to show that a hospital's failure to comply with the ordinance causes any quantifiable harm. Nevertheless, there are at least two benefits to the City associated with imposing fines. Fines would certainly discourage hospitals from violating Prop Q, and they may raise revenues and thus help offset the City's budget deficit. Notably, under State law, private "non-profit" hospitals are exempt from local property and business taxes. Fines would therefore be a new rather than additional burden on not-for-profit hospitals in the City.

## **D. Require Written Plans for Assuring Access to Services**

As noted above, local law requires the City's Health Commission to decide, based on public hearings, whether a hospital's proposed changes will have a negative impact on the community and to explore other ways of

<sup>5</sup> Notably, the Beilenson Act has been amended several times to shorten its original 90-days notice requirement because, according to the City Attorney's Office, this time period proved to be unworkable for hospitals and their patients.

providing the services that are to be reduced. However, the law does not explain the terms "negative impact" or "explore other ways." Instead these determinations are to be made by the Commission. Before a public hearing, the Commission requires a hospital to submit a description of the proposed changes and any alternatives considered to the changes. Hospital officials testify at the hearing on information relating to its proposed changes and respond to matters raised during the hearing. By way of comparison, the Commonwealth of Massachusetts requires all hospitals to submit written plans to the State Department of Health for assuring access to a service following a hospital's closure of that service. In addition, within a year, the Department, in collaboration with the hospital, must prepare a post closure report evaluating the extent to which access to the service was preserved. The advantage to this approach is twofold. Written plans commit hospitals to addressing issues formally, and hospitals as well as the State are held more accountable to the community, as they must prepare a post closure report within a year. Lastly and perhaps most importantly, the onus of "exploring other ways" of providing services that are reduced lies with hospitals (not the City as is the case in San Francisco). However, adopting this approach has at least one major disadvantage. Similar to requiring hospitals to submit quarterly or semi-annual reports, it would disparately impact hospitals doing business in San Francisco. It is possible, but highly improbable, that some hospitals may decide to move from the area. Therefore, the Board of Supervisors may want to draft a motion urging the State Legislature to require all hospitals statewide to submit written plans.

### OTHER JURISDICTIONS

The following are brief descriptions of requirements and/or experiences in other jurisdictions. A summary of these findings can be seen in Table 1 (below).

#### **A. Alameda, California**

Alameda County Medical Center is a Public Hospital Authority authorized by State legislation and directed by a freestanding Board of Trustees. The Alameda County Medical Center presently consists of one psychiatric facility, two hospitals and four health centers.

Under a local ordinance, the hospital authority must provide the Alameda County Board of Supervisors sixty (60) days' notice prior to closing a facility, eliminating or reducing services. The notice must include a statement of impact as specified by the county or required pursuant to Section 1442.5 of the State Health and Safety Code.<sup>6</sup> According to Alameda County health officials, the ordinance applies only to public hospitals. Private hospitals are not subject to its requirements. These officials also advised our office that the county does not impose any requirements on private hospitals that reduce their services. The existing ordinance is still significant because public hospitals must give the county 60 days notice before making any changes. Instead of the 14 days required by the Beilenson Act. This provides the Alameda County Board of Supervisors with additional time to address specific situations.

#### **B. Los Angeles, California**

The Los Angeles County Department of Health Services (DHS) operates numerous hospitals, clinics and health centers. According to DHS's Office of Planning, private hospitals in Los Angeles County that reduce their services are not subject to any local requirements. Public hospitals, on the other hand, are subject to the requirements of the Beilenson Act, as is the case in Alameda and San Francisco.

<sup>6</sup> Alameda County Administrative Code, Title 2, Section 2.120.040



Notably, a Superior Court judge in Los Angeles County recently blocked the closure of Daniel Freeman Marina Hospital (a private hospital) in Marina del Rey, saying the hospital's owners had failed to meet the State's requirements for closing. When the Tenet Corporation purchased the Marina del Rey hospital from a non-profit Catholic group, it agreed to abide by several conditions (tailored by the State Attorney General) in the event it closed the hospital. Eventually, Tenet decided to close the hospital, but failed to comply with the conditions. The Attorney General asked for injunctive relief from the courts and the judge granted it because of Tenet's non-compliance. Specifically, the judge said that Tenet had not shown it sought community input properly and had not consulted its governing board formally. He then enjoined Tenet from closing the hospital until Tenet completed a comprehensive assessment and planning process and consulted the hospital's governing body.<sup>7</sup> As of the writing of this report, this case had not yet gone to trial. Of course, the Board of Supervisors does not have the same powers as the State to proscribe the terms of a hospital's ownership change. Neither the Beilenson Act nor Prop Q can be adjusted by the Board to address these cases in the way afforded to the Attorney General by the law. This anecdote is provided simply to convey the experiences of a jurisdiction facing reductions in hospital services.

### **C. The Commonwealth of Massachusetts**

Under state law, any hospital in Massachusetts that contemplates reducing a service must provide ninety (90) days notice to the State Department of Public Health, which in turn must hold a public hearing and determine whether the proposed change will "significantly reduce access to necessary services."<sup>8</sup> If the Department makes such a determination, it then requires the hospital to submit written plans, within fifteen (15) days, for "assuring access to such necessary services following the hospital's closure of the services." The plan must include the following elements:

- Information on the utilization of the service prior to the proposed closure;
- Information on the location and service capacity of alternative delivery sites;
- Travel times to alternative service delivery sites;
- An assessment of transportation needs post discontinuance and a plan for meeting those needs; and
- A protocol that describes how patients in the hospital's service area will access the services at alternative delivery sites.

The State Department of Health must monitor the implementation of the hospital's plan. In addition, within a year, the Department, in conjunction with the hospital, must prepare a post-closure report that evaluates the extent to which access to necessary services has been preserved. According to the law, whenever possible, the hospital must collaborate with the Department and help develop the report by submitting additional data and information.

<sup>7</sup> The People of the State of California vs. Tenet Healthsystem DFH, Inc., Case No. BC277716

<sup>8</sup> 105 Code of Massachusetts Regulations (CMR) 130.122



Table 1: Summary of Other Jurisdictions

	Hospital Type			Regulatory Requirements			
	Public	Private	Both	Public Notice	Public Hearing	Alternative Access Plan	# of Days Advance Public Notice
San Francisco			✓	✓	✓		90 *
Alameda	✓			✓	✓		14
Los Angeles	✓			✓	✓		14
Massachusetts			✓	✓	✓	✓	60

\* 90 days advance notice for private hospitals per local law and 14 days for public hospitals per the Beilenson Act.

### CONCLUSION

In conclusion, our office found only a handful of options for the Board of Supervisors to undertake on the issue of hospitals that reduce their services. As discussed above, private hospitals in San Francisco are already subject to the strictest public notice and hearing requirements in the State. However, we did identify several areas for potential improvement, ranging from requiring quarterly or semi-annual financial reports to written plans for assuring access to services following a hospital's closure of those services. Arguably, any of these policies could mitigate the negative impact of service reductions on the community. However, they could also benefit from further research and analysis. This is a preliminary look at the pool of available policies. Whether any of these policies should be adopted for San Francisco is, of course, a policy matter for the Board of Supervisors.

### SUGGESTED COURSES OF ACTION

The following are several courses of action for the Board of Supervisors to consider when adopting new or amending existing requirements on hospitals. These are presented in order of most, to least, feasible in San Francisco.

1. Urge the State Legislature to adopt legislation requiring private hospitals to provide the Board of Supervisors with quarterly or semi-annual financial reports and/or a written plan for assuring access to services following a hospital's closure of those services.
2. Amend the Community Health Care Planning Ordinance (Prop Q) requiring private hospitals to provide the Board of Supervisors with quarterly or semi-annual financial reports and/or a written plan for assuring access to services following a hospital's closure of those services.
3. Amend Prop Q to fine private hospitals for violating the provisions of the ordinance. It is important to keep in mind that due process requires that fines be proportional to harm inflicted and that it may be difficult to show that a hospital's failure to comply with Prop Q causes any quantifiable harm.



OLA#: 001-03

## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Jennifer Stanley, Office of the Legislative Analyst  
DATE: February 21, 2003  
SUBJECT: Cruise Ship Terminal at Piers 30 and 32

DOCUMENTS DEPT.

FEB 25 2003

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### SUMMARY OF REQUESTED ACTION

A motion introduced by Supervisor Chris Daly requests the Office of Legislative Analyst (OLA) to examine the regulatory process for approval of the proposed James R. Herman Cruise Ship Terminal at Piers 30 and 32, provide analysis of state legislation that has been approved and may be proposed regarding this site, describe efforts in other communities to plan for cruise ship terminals and to provide guidance to City staff in advance of regulatory approvals at the San Francisco Board of Supervisors. The OLA should provide an initial report no later than February 13, 2003 and continue working until all relevant state and local legislation is adopted.

### EXECUTIVE SUMMARY

This first report on the Cruise Ship Terminal at Piers 30 and 32 addresses state legislation, AB 1389 authored by Assembly Member Kevin Shelley and was signed by the Governor on October 3, 2001. AB 1389 took effect on January 1, 2002. This report will also review AB 605 (Yee) sponsored by the Port of San Francisco to make technical changes to AB 1389.

### BACKGROUND

The San Francisco Port has solicited proposals and has chosen a developer, through a competitive bid process, for development of the James R. Herman Cruise Ship Terminal on Piers 30-32. The 13 - acre project will include 300,000 square feet of office space and 200,000 square feet of retail shops, 7 - acres of open space, as well as, a proposed \$15 million adjacent park on the waterfront (Brannan Street Wharf). The project also involves the removal of some 175,000 square feet of dilapidated piers.

This mixed-use project is estimated to create over 4,000 new jobs in the Bay Area (1,000 construction jobs at its peak and 3,000 permanent jobs) in the varied areas of the project (cruise, industry, retail, restaurants, office, etc.).<sup>1</sup>

<sup>1</sup> Source: AB 1389 Senate Floor Analysis, 9/14/01.

## ANALYSIS OF LEGISLATION

### Current Law and Practice

Existing State law grants certain lands on the San Francisco Waterfront to the City and County of San Francisco in trust for purposes of commerce, navigation, and fisheries. Existing State law establishes the San Francisco Bay Conservation and Development Commission and requires it to regulate fill and development within a specified area of San Francisco Bay.

AB 1389 (Chapter 489) authorizes the San Francisco Port Commission to approve a cruise ship terminal, other maritime facilities, and retail and office space at Piers 30-32 provided the following conditions are met:

- A. The development includes a modern two-berth cruise ship terminal and a public access component.
- B. Prior to submitting a major permit application to the San Francisco Bay Conservation and Development Commission (BCDC) for the project, the Port Commission, after review by BCDC, approves the final design concept for the Brannan Street Wharf development.
- C. Prior to the issuance of a BCDC permit for the cruise ship development project, the Port must demonstrate to the satisfaction of BCDC, and the State Attorney General's Office, that it has encumbered all funds necessary for completion of the Brannan Street Wharf and has placed the funds in a segregated account. Also, requires the Port and BCDC to enter into an agreement that provides for the Port to fund, design, and construct the Brannan Street Wharf consistent with a specified timetable.
- D. The amount of office space in the development does not exceed 300,000 leasable square feet - all of which must be above ground level - and designed to include public spaces and public access. Also, permits an additional 25,000 square feet of general office space, under specified circumstances.
- E. The development includes a marketing program to maximize office space occupied by trust-related tenants over the life of the development.
- F. The cruise ship terminal project, as approved by BCDC, complies with the "trust retail" and "nontrust retail" leasable space requirements as set forth in AB 1389.

AB 1389 stipulates that notwithstanding the San Francisco Bay Plan and the San Francisco Waterfront Special Area Plan for findings of consistency with the public trust doctrine and the Burton Act, the BCDC is authorized to approve the cruise ship terminal development project. Also, provides that nothing in this act is intended to limit the discretion of BCDC to approve or deny permits for the project or enforce permits issued for the project.

AB 1389 authorizes the State Lands Commission (SLC) to convey to the City and County of San Francisco all of the rights, title, and interest held by the State in a small parcel of filled lands along the San Francisco waterfront that consists of a street, free from the public trust for commerce, navigation and fisheries. However, the SLC is required to hold a public hearing and make certain findings prior to authorizing the sale.

Finally, AB 1389 stipulates that sales made by San Francisco pursuant to this act are of statewide importance, thus, any ordinance, charter provision, or other provision of local law inconsistent with this act is not applicable to those sales.<sup>2</sup>

<sup>2</sup> Source: AB 1389 Senate Floor Analyses, 9/14/01.

### Proposed 2003 Legislation

On January 14, 2003 the Port Commission adopted Resolution #03-01 endorsing technical corrections to AB 1389. State Assembly Member Yee introduced AB 605 on February 19, 2003 that will make the changes requested by the Port (see attachment AB 605).

As the changes are non-substantive the Legislative Analyst believes that an analysis of them is of little value.

### NEXT STEPS

- The OLA will continue to monitor the AB 605 for any future amendments that may be introduced to it throughout the legislative process.
- The Planning Department has not assigned the Cruise Ship Terminal project to an individual planner (the Environmental Unit has completed the EIR) as of February 12, 2003. However, the EIR was completed and approved by the Board of Supervisors on January 21, 2003. The OLA will continue to seek information from the Planning Department and others regarding the regulatory process for approvals.
- The OLA will seek further information on the efforts in other communities to plan for cruise ship terminals.



**ASSEMBLY BILL**

**No. 605**

**Introduced by Assembly Member Yee**

**February 19, 2003**

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An act to amend Sections 1, 5, and 7 of Chapter 489 of the Statutes of 2001, relating to lands granted in trust to the City and County of San Francisco.

LEGISLATIVE COUNSEL'S DIGEST

AB 605, as introduced, Yee. San Francisco waterfront: cruise ship terminal development.

Existing law declares specified areas along the San Francisco waterfront to be free from the public trust for commerce, navigation, and fisheries, as provided, and authorizes the San Francisco Port Commission to approve a cruise ship terminal development, other maritime facilities, and commercial and office space on a specified area of the San Francisco waterfront. Existing law authorizes the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands along the waterfront, but prescribes terms and conditions for the use of those lands in connection with the cruise ship terminal development, including a requirement that the trust retail leasable space must be equal to or greater than the nontrust retail leasable space. Existing law defines "nontrust retail" as other retail, indoor public assembly, and theatre uses.

This bill would change the definition of "nontrust retail" to mean other retail and theatre uses. The bill would also make other technical, nonsubstantive changes to the above described law.



Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1 of Chapter 489 of the Statutes of 2001  
2 is amended to read:  
3 Sec. 1. For purposes of this chapter, the following terms have  
4 the following meanings:  
5 (a) "BCDC" means the San Francisco Bay Conservation and  
6 Development Commission established pursuant to Section 66620  
7 of the Government Code.  
8 (b) "Bay jurisdiction" means the jurisdiction, powers, and  
9 duties of BCDC pursuant to Title 7.2 (commencing with Section  
10 66600) of the Government Code within the area defined in  
11 subdivision (a) of Section 66610 of the Government Code.  
12 (c) "Bay Plan" means the San Francisco Bay Plan as adopted  
13 and administered by BCDC pursuant to Title 7.2 (commencing  
14 with Section 66600) of the Government Code, including all  
15 amendments thereto.  
16 (d) "Boundary of the Port of San Francisco" means that line  
17 defining the boundary of "Parcel A" in the description of the lands  
18 transferred in trust to the City and County of San Francisco  
19 pursuant to Chapter 1333 of the Statutes of 1968, recorded on May  
20 14, 1976, in Book C169, pages 573 to 664, inclusive, in the City  
21 and County of San Francisco Recorder's Office.  
22 (e) "Brannan Street Wharf" means a major San Francisco  
23 waterfront park in the area of Piers 34 and 36, as identified in the  
24 Special Area Plan.  
25 (f) "Burton Act" means Chapter 1333 of the Statutes of 1968,  
26 as amended.  
27 (g) "Burton Act trust" means the statutory trust imposed by the  
28 Burton Act (Chapter 1333 of the Statutes of 1968, as amended),  
29 pursuant to which the state conveyed to the City and County of San  
30 Francisco, in trust, by transfer agreement, and subject to certain  
31 terms, conditions, and reservations, the state's interest in certain  
32 tide and submerged lands.  
33 (h) "City" means the City and County of San Francisco.  
34 (i) "McAteer-Petris Act" means Title 7.2 (commencing with  
35 Section 66000) of the Government Code.

(j) "Public trust" or "trust" means the public trust for commerce, ~~or~~ navigation, and fisheries.

(k) "Port" means the City and County of San Francisco acting by and through the San Francisco Port Commission.

(l) "San Francisco Bay" means those areas defined in Section 66610 of the Government Code.

(m) "San Francisco waterfront" means those portions of the area transferred to the port pursuant to the Burton Act that also lie within the area defined in subdivisions (a) and (b) of Section 66610 of the Government Code.

(n) "Seawall Lot 330" means that parcel of property located in San Francisco identified on that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, which is on file with the city's Bureau of Street Use and Mapping.

(o) "Shoreline band jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code to regulate uses within the area defined in subdivision (b) of Section 66610 of the Government Code to ensure, in part, maximum feasible public access, as prescribed in Section 66632.4 of the Government Code.

(p) "Special Area Plan" means the San Francisco Waterfront Special Area Plan, dated July 20, 2000, adopted by BCDC, as amended from time to time.

(q) "Street" means those lands located within the South Beach/China Basin Planning area of the San Francisco waterfront at Seawall Lot 330, and also lying within Parcel A of those lands transferred to the City and County of San Francisco pursuant to the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages 573 to 664, inclusive, in the San Francisco Recorder's office, as more particularly described as that portion of Main Street, located between Bryant Street and the Embarcadero, vacated per Ordinance 14-93 on January 11, 1993, on file with the San Francisco Bureau of Street Use and Mapping, in Book 10, Page 94. All streets and street lines described in the preceding sentence are in accordance with that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, on file with the City's Bureau of Street Use and Mapping.

1 (r) "Waterfront Land Use Plan" means the Waterfront Land  
2 Use Plan, including the Waterfront Design and Access Element,  
3 adopted by the port pursuant to Resolution No. 97-50, as amended  
4 from time to time.

5 SEC. 2. Section 5 of Chapter 489 of the Statutes of 2001 is  
6 amended to read:

7 Sec. 5. The Legislature, in the exercise of its retained power  
8 as trustee of the public trust, and in view of the unique  
9 circumstances existing at Pier 30-32 on the San Francisco  
10 waterfront and the considerable statewide public benefit and  
11 promotion of maritime transportation that will be brought about by  
12 the construction of a new passenger cruise ship terminal,  
13 improvements to berthing facilities for waterborne transit, a  
14 lagoon, improved public access and commercial public trust uses  
15 on this site, hereby authorizes the Port to approve a cruise ship  
16 terminal development on the San Francisco waterfront at Pier  
17 30-32, which would include general office use and general retail  
18 use, if all of the following conditions are met:

19 (a) The development includes a modern two-berth cruise ship  
20 terminal.

21 (b) The development includes a public access component that  
22 meets the requirements of the Special Area Plan and the San  
23 Francisco Bay Plan as interpreted by BCDC and that also offers  
24 expanded bay views and public access.

25 (c) Prior to submitting a major permit application to BCDC for  
26 the cruise ship terminal development, the Port, after review by or  
27 on behalf of BCDC, approves the final design concept for the  
28 Brannan Street Wharf.

29 (d) Prior to the issuance of a BCDC permit for the cruise ship  
30 terminal development, the Port demonstrates, to the satisfaction of  
31 BCDC and the Attorney General's office, that it has irrevocably  
32 encumbered all of the funds deemed necessary for the completion  
33 of the Brannan Street Wharf and has placed the funds in a  
34 segregated account guaranteed to be available to be drawn upon  
35 for the construction of the Brannan Street Wharf, and the Port and  
36 BCDC enter into an enforceable agreement that provides for the  
37 Port to fund, directly or through grant funding, or both, design, and  
38 construct the Brannan Street Wharf consistent with the following  
39 timetable:

(1) The Port shall complete preliminary engineering drawings for the Brannan Street Wharf and prepare and submit to BCDC a financing plan approved by the Port indicating funding sources and estimated construction costs at the time the construction of the cruise ship terminal development commences.

(2) The Port shall complete Phase 1, the northern portion of the Brannan Street Wharf (in the area of Pier 34), as described in the Special Area Plan contemporaneously with the construction of the cruise terminal development.

(3) The Port shall remove Pier 36 and complete the Brannan Street Wharf no later than five years after commencement of construction of the cruise ship terminal development.

(e) The amount of office space in the development does not exceed 300,000 leasable square feet, all of which shall be above the ground level. This office space shall also be designed to contribute to a development design that includes public spaces and promotes visual and public access. An additional 25,000 leasable square feet of space in the cruise ship terminal building may be used for general office use until the earlier of either of the following:

(1) Fourteen years from the first date of occupancy.

(2) When home berthing ships above 5,000 passenger berth capacity call for 15 days per year for two consecutive years.

(f) The development includes a marketing program designed to maximize the amount of general office space occupied by trust-related tenants over the life of the development.

(g) The cruise ship terminal ~~as development~~, if approved by BCDC, complies with the requirements set forth in this subdivision. For purposes of this subdivision only, "trust retail" means visitor serving public trust retail and restaurant use. "Nontrust retail" means other retail, ~~indoor public assembly~~, and theatre uses. The amount of trust retail leasable space shall be equal to or greater than the nontrust retail leasable space. The amount of trust ~~and~~ retail leasable space, nontrust retail leasable space, and visitor serving trust use converted from trust or nontrust retail ~~approved by BCDC~~, as approved by BCDC, shall be at least 40 percent of the total amount of office leasable space.

SEC. 3. Section 7 of Chapter 489 of the Statutes of 2001 is amended to read:

1 Sec. 7. Notwithstanding the Special Area Plan and the Bay  
2 Plan requirement for findings of consistency with the public trust  
3 doctrine and the Burton Act *trust*, BCDC is authorized to approve  
4 the cruise ship terminal development ~~trust~~ as provided in this act.  
5 Except as provided in Section 14 of this act, nothing in this act is  
6 intended to limit the discretion of BCDC to approve or deny  
7 permits for the projects described in this act in a manner consistent  
8 with the McAteer-Petris Act, the Bay Plan, the Special Area Plan,  
9 and this act, or to limit the discretion of BCDC to enforce permits  
10 issued for the projects described in this act.



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## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Jennifer Stanley, Office of the Legislative Analyst  
DATE: February 25, 2003  
SUBJECT: Elected Officials Retreats (File #004-03)

41 Library  
100 Larkin Street Govt Information Center

### SUMMARY OF REQUESTED ACTION

A motion introduced by Supervisor Sophie Maxwell requests the Office of Legislative Analyst (OLA) to research how other cities and counties determine space and time for local legislators to conduct retreats. In particular, the Board is interested in examining how the cities of Richmond and Redwood City, California and Reno, Nevada conduct legislative retreats.

### EXECUTIVE SUMMARY

The Cities of Richmond and Redwood City, California and Reno, Nevada have all held City Council retreats within the past 14 months. All the cities contacted stated that these retreats were successful in building a team approach to local issues, setting goals and local community priorities. The local elected or City official our office contacted highly recommended and supported the process. The communities indicated a desire to continue the retreats on an annual basis.

All the retreats were open to the public and the press (Brown Act) and were held within the respective City or on City owned property. Public comment was provided for as part of the agenda.

### COMMUNITY RETREATS

#### Redwood City

Redwood City Council is comprised of seven members. The City Council met on January 26 and February 4, 2002 to set priorities for 2002 to 2004. This session was held on a Saturday to allow for public participation and was located in the Main Library Community Room. A professional facilitator was hired to conduct pre-session interviews and facilitate the session, at a total cost of \$1,950.

The retreat resulted in a City Council "A" and "B" list of policy priorities for fiscal years 2002/03/04.

#### Richmond

The City of Richmond is comprised of an elected mayor and seven City Council members. The Council convened an all day Council/staff goal setting and planning retreat on October 7, 2002. Attendees included the

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Mayor, City Council members, City Manager, three Assistant City Managers, City Attorney, Police Chief, Fire Chief, Human Resources Director, and Public Services Director. The retreat was held at the Courtyard by Marriott in the City of Richmond.

A professional facilitator was hired to conduct pre-retreat interviews with the Mayor, City Council and City Manager. In addition, a one-hour focus group session was conducted with the senior management staff. Staff was also afforded the opportunity to submit privately any additional information or comments. The facilitator's contract was in the amount of \$9,995.

The retreat agenda was based on the feedback from the interviews and input from the Mayor, three Council committee chairs and the City Manager. The retreat resulted in a "Three-Year Goals and Objectives" document for the City to follow.

### **Reno, Nevada**

The City of Reno has a Council/City Manager form of government. The Council is comprised of seven members, one of whom is chosen to also serve as the Mayor. The City has held Council retreats for the past seven years. The retreat includes a one-day Executive Team retreat and a two-day communications workshop and goal setting session for the Mayor, City Council, City Manager, City Attorney and City Clerk, with a half day follow-up session. Reno utilizes a City owned Lodge on Mount Rose (30 minutes from Reno) for these sessions (no overnight accommodations).

A professional facilitator was hired to conduct pre-workshop interviews with each of the participants, design and prepare the meeting agenda, develop needed materials, direct and facilitate the workshops and goal setting session and prepare a written follow-up report. In addition, the facilitator also designed, prepared and conducted a two-day team building, cross department communications, and action planning workshop for the City management team. The facilitator's contract amounted to \$17,820.

### **OPTIONS**

- The San Francisco Board Supervisors (BOS) may want to consider organizing a retreat for the purpose of building a team approach to local issues, setting goals, budget objectives and local community priorities.
- The BOS may want to consider organizing a focused retreat to only deal with budget priorities and/or setting of goals.
- A professional facilitator generally facilitates retreats but it is optional. The view of other communities is that it is money well spent. If a professional facilitator was not contracted with, existing internal staff could be utilized for this purpose. However, as they may not have the needed skills for this activity the end product may not be fully achieved.



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## LEGISLATIVE ANALYST REPORT

DOCUMENTS DEPT.

TO: Honorable Members of the Board of Supervisors  
FROM: Louisa Chiang w/ Gabe Cabrera, Office of the Legislative Analyst  
DATE: March 5, 2003  
SUBJECT: **Blight Ordinance (File No. 021615)**

MAR - 7 2003

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### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor Hall) requesting the Office of the Legislative Analyst (OLA) to compare and contrast San Jose's "Blight Ordinance" to San Francisco's Planning Code. In addition, the OLA should review enforcement procedures and enforcement capabilities of the two cities.

### EXECUTIVE SUMMARY

The anti-blight laws and their enforcement can be found in one code and under one agency in San Jose. In contrast, San Francisco scatters codes and enforcement over many different departments. Moreover, due in part to stricter language and a citation system overseen by an appeals board, San Jose is sometimes more stringent in its enforcement efforts. Overlapping jurisdiction and the lack of centralized case intake and tracking sometimes hamper San Francisco's enforcement procedures and make it difficult for city residents to report and correct blight problems in their community. The San Francisco Board of Supervisors may address these problems by choosing among a combination of code and procedure changes:

- 1) Take all anti-blight ordinances and put them under one code, and reorganize the departments so that all code enforcement functions that can be entrusted to generalist inspectors are brought under one department.
- 2) Shift to an administrative citation system overseen by an appeals board.
- 3) Rewrite some of the existing codes to remove ambiguity and to allow more specific enforcement.
- 4) Rationalize existing enforcement procedures by taking some or all of the following steps:
  - a. Have a centralized telephone and online intake system that all departments share so that the burden of figuring out department jurisdiction shifts from customers to agencies;
  - b. Centralize the case tracking system to ensure follow-up;
  - c. Provide one master fee schedule;
  - d. Improve information sharing among the different departments; and
  - e. Hold annual cross-training sessions between different departments to clarify jurisdiction issues and enhance cooperation.

## BACKGROUND

### Comparing Blight Laws in San Jose and San Francisco

First known as the “Blight Ordinance” (later renamed “Community Preservation Ordinance,” #26710), San Jose’s Municipal Code Chapter 17.72 addresses the following major categories of blight problems:

- Overgrown weeds and grass
- Landscaping
- Trash, litter and debris
- Outside storage of household items
- Property blight
- Disrepair and exterior property conditions
- Graffiti
- Abandoned or junk vehicles
- Vehicles parked on lawn or unpaved area
- Home auto repair

While these categories are all covered by San Francisco’s municipal codes, they are not all found in one body, but are scattered throughout the Planning, Building, Fire, Health, Housing, Police, Public Works and Traffic Codes. Indeed, sometimes the departments have overlapping jurisdiction over the same issues. Therefore, rather than focusing on just the Planning Code as requested by the Board, this analysis utilizes the categories laid out in San Jose’s “Blight Ordinance” as a yardstick in comparing and contrasting the laws of the two cities.

### PART 1 - Comparing the Codes

A comparison shows several notable differences between the codes of the two cities. The following analysis lays out these differences in more detail (please see Appendix A for summary and code abstracts.)

***Overgrown, Decayed or Dead Vegetation.*** San Jose sets out specific height (no more than 12 inches) and coverage restrictions (no more than 50% dead grass covering the front area) for the front lawn. Moreover, the ordinance states that since the grass, weed, tree or vegetation in question “substantially detracts from the aesthetic and property values of neighboring properties,” the property is considered blighted. San Francisco’s Health Code is more vague. Rather than setting specific measurements, it merely prohibits the “accumulation” of vegetation “overgrowth,” and the Department of Health (DPH) currently has the discretion to interpret these terms in practice.

***Landscaping.*** San Jose is again quite specific in its landscaping requirements. For example, owners must use “live trees, shrubs, lawns, other live plant materials or Decorative Landscaping.” Also, depending on the type of dwelling, owners must ensure that 25 to 50 percent of the unpaved portions of their front and side yard is landscaped. San Francisco has no such sweeping landscaping requirements. While both residential house and residential mixed districts are required to provide “no less than 30 percent” of their frontage to “windows, entrances for dwelling units, landscaping, and other architectural features that provide visual relief and interest,” the code does not further specify what type of landscaping should be put in place, nor what percentage of the set-aside frontage area should be landscaped. However, there are areas of the city where landscaping requirements are as specific and stringent as those of San Jose’s. For example, in certain residential areas (see

Planning Code Section 132g) “not less than 20 percent of the required setback area shall be unpaved and devoted to plant material.”

**Outside Storage.** San Jose prohibits the outside storage of household items (e.g. old appliances and furniture) where they are visible from any street (including in the rear yard area.) San Francisco only prohibits the outside storage of broken refrigerators for safety reasons, as some refrigerator models cannot be opened from the inside and pose a hazard to children who may get locked into them accidentally and suffocate. In addition, San Francisco’s laws do not permit “visual blight” as a consideration in issuing citations. For example, a neighbor cannot complain about the accumulation of household items in an owner’s backyard simply because he can see them from his own property.

**Structure in Disrepair.** In San Jose, so long as any part of the property is “broken or deteriorated to the extent that the disrepair is visible from a street or neighboring properties,” the owner can be held responsible for property blight. While San Francisco’s Housing Code allows the City to cite “general dilapidation or improper maintenance,” the law does not define these conditions on the basis of whether they constitute property blight.

**Home Auto Repair.** The laws of the two cities are quite similar. The only difference is that San Francisco allows auto repair on residential premises so long as the auto owner is a member of the dwelling residents’ household (e.g. not a commercial customer.) San Jose specifies that the auto owner must also own the property in order to be able to carry out repairs on the premises.

**Why Are the Two Cities’ Codes Different?** More than one interviewee has also mentioned that, whereas San Jose undertook the Community Preservation Ordinance by consolidating, revising and supplementing existing codes, San Francisco’s sprawling body of codes is the product of gradual development rather than comprehensive design. Vagueness in the language of San Jose’s overgrown vegetation requirements may also be a roadblock in its adoption in San Francisco. According to Deputy City Attorney Rose Ellen Heinz, when City code enforcement staff were brought together to discuss San Jose’s ordinances, the inspectors expressed reservation about the “aesthetic and property value” provision, since they felt that it was vague and arbitrary and could lead to court challenges. Finally, it should also be stressed that enforcement of San Jose’s landscaping requirements will not begin until March 2003, so it remains to be seen whether legal challenges would be mounted against them and, if so, what the courts would ultimately decide.

## **PART II – Comparing Code Enforcement**

### **Methodology**

In evaluating the enforcement procedures and capabilities of both cities in anti-blight efforts, this analysis uses certain proxies in the case of San Francisco. Since San Francisco has a minimum of seven departments and commissions dealing with blight issues, and anti-blight code enforcement is often not separated out from the departments’ other functions, it is difficult to gather an overall picture of the departments’ anti-blight capabilities. Insofar as they are available, this analysis looks at annual caseloads and backlog as ways to measure a department’s enforcement capability. Procedure is examined by looking at customer service that departments offer in terms of case intake, ease of information access for city residents, and case tracking and information sharing. In addition to the complaint-making mechanism, the citation and penalty procedures of the two cities are also juxtaposed.

## **Staff and Caseload Overview**

### ***San Jose***

San Jose brings all blight enforcement under the Code Enforcement Division of the Department of Planning, Building and Code Enforcement. The Division processes 58,000 complaints per year and employs 104 persons, including 58 full-time equivalent (FTE) code enforcement officers and 13 vehicle abatement officers<sup>1</sup>. The most recent San Jose "Code Enforcement System General Code Case Status Report" (October 23, 2002; Fiscal Year 2002-2003) identifies a total of 2,547 Assigned Cases, 3,505 New Cases (Year To Date), and 3,376 Closed Cases (Year To Date), with the Average Days to Closure of 125 days.

### ***San Francisco***

San Francisco's Code Enforcement Task Force is a multi-departmental forum that brings together personnel to build relations, share information and coordinate enforcement. However, each department retains its own staffing, operations and code enforcement arm. Please note that, since anti-blight code enforcement activities are not always separated out in each department, the following staff statistics are for reference only and not meant to be compared to those of San Jose.

<b>Department</b>	<b>Code Enforcement Staff (# of FTE)</b>
Department of Health	6.5
Department of Planning	2
Fire Department	47 inspectors (328 officers who are authorized to enforce code)
Department of Building	18
Department of Parking and Traffic	Not available.
Police Department	20 code enforcement officers (enforcement time level varies, not FTE) 1 liaison officer (10% FTE of 10 liaison officers) 3.5 graffiti abatement officers
Department of Public Works	18

The following analysis looks at the Planning and Health departments, for which some statistics are available, to give a snapshot of anti-blight enforcement in San Francisco.

### ***Planning Department Caseload Overview***

Currently, the Planning Department has two inspectors assigned to code enforcement. For administrative reasons, the Department divides the city into four geographical quadrants, and one inspector is to serve each quadrant. However, due to lack of funds, two of the four positions are currently vacant. Planning is responsible for enforcing many of the City's anti-blight laws. However, due at least in part to lack of personnel as well as procedural limitations, enforcement has not always been optimal. For example, laws such as landscaping requirements for certain areas (e.g. the Sunset) are only enforced at the time of construction. If some owners subsequently remove landscaping and fill the area with concrete, this may easily escape notice.

<sup>1</sup> Pearl, Barry. *Should San Francisco Create A Single-purpose Department to Enforce Public Welfare Regulations?* Page 53. Master of Public Administration Thesis, San Francisco State University, December 2002.



A management audit conducted by the Budget Analysts' Office in August 2002 on the Planning Department provides a good overview of the department's enforcement capabilities. According to the Budget Analyst, between "May 23, 2001 through October 9, 2001, the Code Enforcement Unit initiated an average of 48 new cases monthly and closed out an average of 23 cases monthly," or a rough annual total of about 275 cases were closed each year. At the same time, in calendar year 2000 the Department classified approximately 3,550 Planning Code complaint cases as inactive. In interpreting these numbers, it must be taken into consideration that 60 percent of "inactive" complaints are regarding the presence of "illegal dwelling units," which means that only a fraction of the cases would in all likelihood involve blight issues. However, this significant backlog gives a sense of the difficulty the Planning Department has had in its anti-blight efforts.

### ***The Health Department Caseload Overview***

According to Helen Zverina of DPH's Environmental Health Services, the Department logged approximately 1,300 blight-related cases during calendar year 2001. The breakdown of the complaints is as follows:

Overgrown vegetation/ weeds	= 110
Trash/ debris/ illegal dumping	= 400
Abandoned vehicles on private property	= 50
Vacant building nuisance	= 20
Human waste in public areas	= 50
Animal waste	= 400
Vacant lot nuisance	= 15
Rodent Harborage	= 250

Since the Department received about 3,000 complaints a year, this means that about 40 percent of DPH's workload is blight-related. According to Ms. Zverina, their backlog is about a month. Her section currently has seven (7) field technician positions allotted to performing inspections; however, two (2) of these positions are currently vacant.

### **Customer Service Procedures**

#### ***Case Intake and Information Access***

The fact that, in San Francisco, blight-related cases are not reported separately as part of the departments' performance, and that procedures vary between different departments, underlines a crucial difference between the anti-blight efforts of San Jose and San Francisco. Whereas in San Jose residents have a one-stop shop for reporting and addressing blight problems, San Francisco residents often must spend an extensive amount of time and effort to figure out who has jurisdiction over which part of the blight problem they are reporting.

The difficulty that residents who seek help may encounter, and the initiative it requires to see a blight problem through to its solution, can be gauged by looking at neighborhood self-help programs against blight. For example, a nonprofit organization based in the Mission, the "Free Print Shop", currently distributes a 16-page handbook called "San Francisco Neighborhood Fix-it Chart". It is an excellent resource that not only lists anti-blight services, but guides users through the various departments that deal with the diverse facets of the same problem. For example, under the listing *Cars: how to close an illegal car repair shop*, no fewer than four solutions and three agencies are described. Depending on whether the issue is classified as fire prevention,



illegal construction, or changed use occupancy, residents can call the Bureau of Fire Prevention, the Permit Officer at the nearest police station, or the Department of Building Inspection.

Moreover, our office conducted an unscientific test of the City's response to requests for graffiti removal services. First, we called a "Graffiti Removal" hotline number listed on the City's main website and discovered that we had called SFPD's graffiti abatement (a public education program), rather than actual graffiti removal services. We were then advised to call DPW or DPT if the graffiti was on street signs. We then searched DPW's webpage, but could not find the appropriate number to call for graffiti removal services. Instead, we again found the above-mentioned graffiti abatement program. Finally, we called DPW's main switchboard, asked a graffiti-related question, and were referred to DPH since the operator was unsure as to which department had jurisdiction. After a couple of voice messages, we were finally referred by DPH to the appropriate DPW office. While the City personnel answering the telephone were always professional and friendly, they often did not know where to refer us.

The above examples clearly demonstrate the considerable difficulty city residents may have in accessing City anti-blight services. Unlike San Jose, no single point of intake exists, and even when departments share jurisdiction, customer service representatives are often not well informed about the division of labor between departments. The inadequate information given on the City's website shows that even the City's own personnel sometimes have difficulty keeping track of jurisdiction issues, which results in customers having to make numerous calls, becoming frustrated and, undoubtedly in many cases, giving up. By way of comparison, San Jose residents can find all anti-blight services under one roof (literally). For example, the online "Blighted Property Report Form" on the Code Enforcement Division's webpage allows residents to report any of the major blight issues covered in the code. Not only can San Jose residents look up all relevant anti-blight laws under the "Blight Ordinance" on the website, they can count on having a master fee schedule and consistent enforcement methods. Finally, San Jose is also developing a process flow chart to show owners who have received citations what the appeals process looks like.

### *Information Sharing Issues*

While City departments work together on code enforcement, interviews show that improvement is needed in case tracking and information sharing. For example, currently Planning can access DBI's database, but has no access to that of DPW. Also, currently Planning reviews permits from both the Police and Health Departments, but cannot access their enforcement activities databases. Linkage is also needed between the Assessor's Office database and other code enforcement databases, since this would help departments to track down owners of blighted properties. Finally, since the Treasurer's Office does not share information with Planning, the former occasionally issues licenses to businesses in violation of zoning laws and creates more enforcement difficulty for the other departments once the business is set up.

Connecting the databases is only one step in improving collaboration between the different departments. The fact that there is no centralized case-tracking system leads to duplication of services and increases the likelihood that cases are not captured and followed up on. For example, a zealous resident who does not get immediate feedback from one department may end up filing a complaint with all departments whose jurisdiction touches on the problem at hand – a situation which, according to several interviewees, has occurred numerous times.

### Administrative Citations versus Civil Notices

In order to get a complete and accurate picture of anti-blight code enforcement in San Francisco versus San Jose, how the codes are interpreted and enforced can be as important as what the codes call for. An illuminating case where the codes of the two cities are similar but the outcomes are different is that of inoperative ("junk") vehicles parked on private property. Both San Jose and San Francisco give the departments authority to correct unsanitary and hazardous conditions on private property. However, whereas San Jose is able to impose fees which quickly escalate in the case of intransigent owners, in San Francisco DPH often must first show "good cause" to a judge and obtain an inspection warrant; the process then must be turned over to the City Attorney's Office and can ultimately only be addressed in court. In practice, this means that San Jose may often be able to enforce its laws against junk vehicles on private property more easily and frequently than San Francisco does.

This difference springs from a difference in procedures. San Jose has a three-tier system. If owners ignore the administrative citations, Code Enforcement can take the case to the Appeals Hearing Board. The Board is given the judiciary power by the City Council, and issues administrative remedies where fines can be as high as \$2,500 starting the first day that non-compliance is documented. Where Code Enforcement feels that it needs to abate blight on private property, it can also obtain permission from the Board to obtain entry and perform the work. Only the most egregious cases are referred to the City Attorney's Office for litigation. This system is therefore able to correct most blight problems quickly and avoid lengthy court proceedings. Owners who are unsatisfied with the Board's ruling can, of course, file a case in civil court. San Francisco departments, in comparison, have in the majority of cases only the authority to issue "civil notices," that is, notification that the occupant/owner has violated a law, *without fines and other administrative penalties attached to them*. (DBI, DPH and Fire do have the power to issue criminal citations, but those are usually reserved for safety violations rather than blight.) However, only a small number of cases are sent to the City Attorney's Office, and an even smaller fraction of them end up in court, where fines are sought. The same hurdles make it harder for San Francisco departments to recover blight abatement costs than it is for San Jose.

According to San Jose's Code Enforcement staff, administrative citations are better suited to anti-blight efforts than criminal penalties. Since the social consequences of blight are often not as pressing and deplorable as most criminal cases that judges hear, judges tend to be lenient toward offending property owners and more hesitant to impose penalties than a board set-up only to deal with blight issues. Some San Francisco personnel disagree with this assessment, while others concur. According to Ms. Heinz of the City Attorney's Office, the current S.F. system is quite effective at addressing the bulk of blight issues. Anecdotally, she believes that 80 to 90 percent of blight cases are solved at the departmental level, since by and large property owners comply once they are notified of the problem that needs to be corrected. The cases that the City Attorney's Office litigates usually involve egregious habitability violations. On the other hand, with respect to landscaping laws, Lois Scott of the Planning Department advises that they are often difficult to enforce in part because the Department lacks a fining mechanism. She believes that if Planning could impose graduated fines for violations, its enforcement efforts would be more effective. To conclude, an appeals board may indeed prove to be more sympathetic to anti-blight goals than the traditional court system. However, some people may argue that these goals intrude on private property rights. Ultimately, whether the City should process blight cases through an appeals board rather than the traditional court system is a policy matter for the Board of Supervisors.

### Organizational and Budgetary Constraints

It has been argued that departments are often reluctant to perform enforcement duties with zeal, since this is often perceived as "bad cop" work which conflicts with, and may even sometimes undermine, their role as service and education providers to the community. Moving most code enforcement functions out of departments would solve this conflict of roles. While a high level of technical expertise is required for the work of some departments (e. g. Health, Building Inspections,) the vast majority of blight cases can be inspected and cited by generalists<sup>2</sup>. This can be combined with an administrative citation system overseen by an appeals board to expedite the process.

Some City personnel think that another organizational problem, which may have hampered blight enforcement capability, is inadequate City funding. Ms. Scott of the Planning Department believes that many departments do not allocate enough money for code enforcement activities. As an example, she points to DPW's 16-member Environmental Control Officer (ECO) program, which enforces a variety of codes such as Health, Police, Public Works and California Penal Codes and conducts "eco-blitzes" to clean up certain locations. The ECO is currently facing substantial layoffs due to the City's budget deficit. From Ms. Scott's point of view, concentrating all code enforcement under one department would not necessarily make enforcement more effective, since the bulk of the problem lies in understaffing, not duplication of services and overlapping jurisdiction.

### OPTIONS

If the Board wishes to adopt new and/or modify existing anti-blight law and/or to change the enforcement procedures currently in place, it can consider adopting the following options in feasible combinations:

- 1) Take all code enforcement ordinances and put them under one code as San Jose has done, and reorganize the departments so that all code enforcement functions that can be entrusted to generalist inspectors fall under one department.
- 2) Consider shifting to an administrative citation system overseen by an appeals board.
- 3) Modify existing codes. The Board can use the information provided in the Detailed Code Comparison section as a starting-point. Some of San Jose's requirements are more specific, and can be adopted if the Board thinks that such changes would eliminate undesirable ambiguity. This should, of course, be done while balancing considerations of urban-suburban differences between the two cities as well as the likelihood of legal challenges.
- 4) Rationalize existing enforcement procedures so as to minimize duplication and to improve ease of access for city residents by taking some or all of the following steps:
  - a. Have a centralized telephone and online intake system that all departments share so that the burden of figuring out department jurisdiction shifts from customers to agencies;
  - b. Centralize the case tracking system to ensure follow-up;
  - c. Provide one master fee schedule;
  - d. Improve information sharing among the different departments; and
  - e. Hold annual cross-training sessions between different departments to clarify jurisdiction issues and enhance cooperation.

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<sup>2</sup> Pearl, Conclusions and Recommendations, pp. 74-76.

*Follow-up Assessment*

To determine whether code enforcement funding is adequate, the Board may send out letters of inquiry to all department heads and request for a determination of the annual budget and FTE personnel devoted to code enforcement activities, and then ask the LAO to do a follow-up study to see whether San Francisco and San Jose spending and staffing levels are comparable.

## Appendix

### *San Jose and San Francisco: Anti-Blight Code Comparison*

The following is a comparison of San Jose and San Francisco anti-blight codes in tabular summary, followed by complete abstracts of the comparisons:

	San Jose	San Francisco	Comparison
<b>Overgrown Weeds/Grass or Dead Vegetation</b>	17.72.525a Exterior Property Conditions	Health Code Article 11, Sec. 581.2	San Jose's requirements are more specific than SF's.
<b>Landscaping</b>	17.72.530; 535 Single-family Dwelling Landscaping Requirements; Multi-family Dwelling Landscaping Requirements	Planning Code, Sec. 132g; 136; 143; 144	San Jose requirements are more general and specific; San Francisco's are less general, but very detailed in specific residential areas.
<b>Trash/litter/Debris</b>	17.72.545	Health Code Article 11, Sec. 581	Nearly the same.
<b>Outside storage of household items, boxes, lumber, dirt and debris</b>	17.72.570 Storing or Maintaining Household Items	Health Code, Sec. 581; Sec. 1306  Housing Code, Sec. 103 (only pertains to refrigerators that cannot be opened from the inside; safety of children considered.)  Police Code, Sec. 645	San Jose's laws are more stringent, since they restrict storage on private property based on visibility from outside, and specify the type of items forbidden as well. San Francisco's laws only pertain to refrigerators, and except in extreme cases are not enforced on private property, nor is visibility from the outside considered a valid objection.
<b>Property Blight: unsecured buildings and structures/ Abandoned Construction</b>	17.72.505; 17.72.510; 7.52.515	Housing Code, Sec. 102  Planning, Sec. 176; Sec. 202 (c) prohibits conditions that are hazardous, noxious or offensive.  Police Code, Article 1,	Nearly the same. While San Jose's laws openly forbids unsecured properties and San Francisco's do not, in practice the departments enforce the laws by citing owners for not securing their properties by making the argument that this attracts nuisances to the property.

	<b>San Jose</b>	<b>San Francisco</b>	<b>Comparison</b>
<b>/Attractive Nuisance</b>		Section 25 -Remaining Upon Private or Business Property After Being Requested to Leave	
<b>Structure in Disrepair</b>	17.72.520 State of Disrepair	Housing Code, Ch. 10, Substandard Buildings, Sec. 1001a, b (13) - General dilapidation or improper maintenance. Health Code, Art. 26, Comprehensive Lead Poisoning Environmental Investigation, Management and Enforcement Program	San Jose's laws are more stringent in penalizing signs of disrepair to a property that is "visible from a street or neighboring properties." San Francisco does not use this criterion, and in using "general dilapidation and improper maintenance" as the criterion for blight enforcement appears to be more lenient in its requirements. In practice, enforcement has not focused on external property blight.
<b>Graffiti</b>		Public Works Code, Sec. 1300 - Graffiti Removal and Abatement	Nearly the same.
<b>Abandoned or Junk vehicles</b>	17.72.565 Parking, Storing, or Maintaining Motor Vehicles and Boats	Traffic Code, Sec. 230.  Health Codes apply for private areas	Nearly the same.
<b>Vehicles parked on lawn or unpaved area</b>	17.72.600 Parking on Unpaved Surfaces Prohibited	Traffic Code, Sec. 230  Planning Code, Sec. 132, 133; 136; 144	Nearly the same.
<b>Home auto repair</b>	17.72.585 Activities Prohibited on Property Designed or Used as a Residence	Housing Code, Sec. 711- forbids home auto repair.  San Francisco Fire Code, article 29, Sec. 2901.1.1 - Vehicle Repair in Residential Premises.	San Francisco laws are slightly more lenient; so long as the person doing the repairs is a member of the immediate family, home auto repair is allowed.



## WEED AND VEGETATION

### SAN JOSE

#### **Municipal Code Ch. 17.72.525 Exterior Property Conditions**

(A) The property contains overgrown, diseased, dead or decayed trees, weeds or other vegetation that:

1. Constitutes a fire hazard or other condition that is dangerous to the public health, safety, welfare; or
2. Creates the potential for the harboring of rats, vermin, vector, or other similar nuisances; or
3. Substantially detracts from the aesthetic and property values of neighboring properties; or
4. Is overgrown onto a public right-of-way at least twelve inches; or
5. Is completely dead, over twelve inches in height, and covers more than fifty percent of the front or side yard visible from any street.

### SAN FRANCISCO

#### **Health Code, Article 11, Sec. 581 Nuisance Prohibited**

(2) Any accumulation of hay, grass, straw, weeds, or vegetation overgrowth;

## LANDSCAPING

### SAN JOSE

#### **17.72.530 Single Family Dwelling Landscaping Requirements**

- A. A single family dwelling subject to a development permit shall be landscaped in accordance with the requirements of the development permit.
- B. Subject to the paved surface limitations set forth in Section 20.30.440 of this Code, a single family dwelling, not subject to a development permit, shall have landscaping installed in the non-paved portions of the front and side yards that are visible from any street. For purpose of this subsection only, "landscaping" means live trees, shrubs, lawns, other live plant materials or Decorative Landscaping, have been installed.
- C. If only Decorative Landscaping is used to meet the requirements of this Section, Weed Block shall also be used.
- D. Failure to meet the landscaping requirements of this Section constitutes property blight.

#### **17.72.535 Multifamily Dwelling Landscaping Requirements**

- A. A multifamily dwelling subject to a development permit shall be landscaped in accordance with the requirements of the development permit.
- B. Subject to the paved surface limitations set forth in Section 20.30.440 of Title 20 of this Code, a single family dwelling, not subject to a development permit, shall have landscaping installed in the nonpaved portions of the front and side yards that are visible from any street. For purpose of this subsection only, "landscaping" means that:

1. At least fifty percent of the nonpaved portions of the front and side yards that are visible from any street shall be covered with live trees, shrubs, lawns, or other live plant materials;
  2. The remaining portion of the nonpaved portions of the front yards that are visible from any street shall be covered with live trees, shrubs, lawns, or other live plant materials or shall have Decorative Landscaping installed.
- C. If Decorative Landscaping is used to meet the requirements of this Section, Weed Block shall also be used.
- D. Failure to meet the landscaping requirements of this Section constitutes property blight.

("Weed Block" means material that is installed over a dirt surface in order to prevent the growth of weeds and that does not prevent the infiltration or passage of water into the dirt surface.)

## **SAN FRANCISCO**

**Planning Code, Sec. 132(g) Landscaping.** All front setback areas required by this Section 132 shall be appropriately landscaped, and in every case not less than 20 percent of the required setback area shall be unpaved and devoted to plant material.

### **Planning Code, Sec. 143 Street Trees, R, SPD, RSD, NC, C-3, SLR, SLI AND SSO Districts.**

(a) In any R, SPD, RSD, NC, C-3, SLR, SLI, or SSO District, street trees shall be installed by the owner or developer in the case of construction of a new building, relocation of a building, or addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building, and within the RED, SPD, RSD, SLR, SLI and SSO Districts, in the case of change of 20 percent or more of the occupied floor area of an existing building to another use.

(b) The street trees installed shall be a minimum of one tree of 15-gallon size for each 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Such trees shall be located either within a setback area on the lot or within the public right-of-way along such lot.

(c) The species of trees selected shall be suitable for the site, and, in the case of trees installed in the public right-of-way, the species and locations shall be subject to approval by the Department of Public Works. Procedures and other requirements for the installation, maintenance and protection of trees in the public right-of-way shall be as set forth in Article 16 of the Public Works Code.

(d) In any case in which the Department of Public Works cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 143 may be modified or waived by the Zoning Administrator to the extent necessary.

(e) In C-3 and South of Market Districts, the Zoning Administrator may allow the installation of planter boxes or tubs or similar landscaping in place of trees when that is determined to be more desirable in order to make the landscaping compatible with the character of the surrounding area, or may waive the requirement in C-3 districts where landscaping is considered to be inappropriate because it conflicts with policies of the Downtown Plan, a component of the Master Plan, such as the policy favoring unobstructed pedestrian passage.

#### SEC. 144. Treatment of Ground Story on Street Frontages, RH-2, RH-3, RM-1 AND RM-2 Districts.

(a) **General.** This Section is enacted to assure that in RH-2, RH-3, RM-1 and RM-2 Districts the ground story of dwellings as viewed from the street is compatible with the scale and character of the existing street frontage, visually interesting and attractive in relation to the pattern of the neighborhood, and so designed that adequate areas are provided for front landscaping, street trees and on-street parking between driveways.

(b) **Entrances to Off-Street Parking.** Except as otherwise provided herein, in the case of every dwelling in such districts no more than 30 percent of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is set back from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than 16 feet in width. In addition, no entrance to off-street parking for a dwelling on any lot shall be wider than 20 feet, and where two or more separate entrances are provided there shall be a minimum separation between such entrances of six feet. The requirements of this Subsection (b) shall not be applicable where the lot has an upward or downward slope from the front lot line to the forward edge of the required rear yard, along the centerline of the building, of more than 20 percent; or where the lot depth and the requirements of this Code for dimensions, areas and open spaces are such that the permitted building depth is less than 40 feet in an RH-2 District or less than 65 feet in an RH-3, RM-1 or RM-2 District.

(c) **Features To Be Provided.** In the case of every dwelling in such districts, no less than 30 percent of the width of the ground story along the front lot line, along a street side lot line, and along a building wall that is set back from any such lot line, shall be devoted to windows, entrances for dwelling units, landscaping, and other architectural features that provide visual relief and interest for the street frontage.

#### TRASH, LITTER, DEBRIS

#### SAN JOSE

##### San Jose Municipal Code 9.10.280 Solid Waste.

"Solid waste" means all putrescible and nonputrescible solid and semisolid waste material including garbage, rubbish, demolition and construction wastes, industrial wastes, vegetable and animal solid and semisolid wastes, reusable or recyclable material, bulky goods, and other discarded solid and semisolid wastes.

##### San Jose Municipal Code 17.72.545 Inadequate Solid Waste Management

- A. The accumulation of solid waste, as defined in Section 9.10.280, constitutes property blight in the following situations:
1. The accumulation of solid waste is visible from a street or neighboring property and is present for more than seventy-two consecutive hours; or
  2. The accumulation of solid waste is being stored or disposed of in a manner that would allow the material to be transported by wind or otherwise onto or upon any street, or neighboring property, unless the method of storage or disposal is specifically allowed by this Code.
- B. The accumulation of dirt, litter, or debris in vestibules or doorways of buildings constitutes property blight if it is visible from any street or neighboring properties and is present for more than seventy-two consecutive hours.

## **SAN FRANCISCO**

### **Health Code Article 11, Sec. 581 Nuisance Prohibited**

- (a) No Person shall have upon any premises or real property owned, occupied or controlled by him, or her, or it any public nuisance.
- (b) The following conditions are hereby declared to be a public nuisance:
  - (1) Any accumulation of filth, garbage, unsanitary debris or waste material or decaying animal or vegetable matter unless such materials are set out for collection in compliance with Section 283 of this Code;
  - (2) Any accumulation of waste paper, litter or combustible trash unless such materials are set out for collection in compliance with Section 283 of this Code;
  - (3) Any buildings, structures, or portion thereof found to be unsanitary
  - (4) Any matter or material which constitutes, or is contaminated by, animal or human excrement, urine or other biological fluids;
  - (5) Any visible or otherwise demonstrable growth of mold or mildew in the interiors of any buildings or facilities;
  - (6) Any pest harborage or infestation including but not limited to pigeons, skunks, raccoons, opossums, and snakes, except for pigeon harborages that comply with Section 37(e) of this Code;
  - (7) Any noxious insect harborage or infestation including, but not limited to cockroaches, fleas, scabies, lice, spiders or other arachnids, houseflies, wasps and mosquitoes, except for harborages for honey-producing bees of the genus *Apis* regulated by the California Food and Agriculture Code Sections 29000 et seq. which are not otherwise determined to be a nuisance under State law.
  - (8) Any article of food or drink in the possession or under the control of any person which is tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or drunk. The term "food" as used in this subparagraph includes all articles used for food and drink by humans, whether simple, mixed or compound.

## **OUTSIDE STORAGE OF HOUSEHOLD ITEMS, BOXES, LUMBER, DIRT AND OTHER DEBRIS**

### **SAN JOSE**

#### **San Jose 17.72.570 Storing or Maintaining Household Items**

- A. No household Item shall be stored or maintained in an area visible from any street for a period of time in excess of seventy-two consecutive hours.
- B. The storage or maintenance of a Household Item in a side or rear yard shall either be:
  - 1. In an accessory building constructed in accordance with the provisions of this code; or
  - 2. In an area that provides for a five-foot setback from any property line and which is not visible from any street. In addition to the setback requirement, at least one thousand five hundred square feet, or at least sixty percent of the remaining rear yard area, whichever is less, must be maintained as usable outdoor recreational space.
- C. No Household Item shall be stored, or maintained within five feet of any required building exit, including exit windows.
- D. This Section does not prohibit the storage, or maintenance of any of the following:
  - 1. Machinery installed in accordance with the provisions of this Code in the rear or side yard setback areas for household or recreational use, or

2. Furniture designed and used for outdoor activities, or
3. Any item stored or kept within an enclosed Storage Structure.

### **San Jose 17.72.575 Storing or Maintenance of Boxes, Lumber, Dirt and other Debris**

- A. No boxes, lumber, dirt, or other debris shall be stored or maintained in an area visible from any street for a period of time in excess of seventy-two consecutive hours.
- B. The storage or maintenance of boxes, lumber, dirt, or other debris in a side or rear yard shall either be:
  1. In an accessory building constructed in accordance with the provisions of this code; or
  2. In an area that provides for a five-foot setback from any property line and which is not visible from any street. In addition to the setback requirement, at least one thousand five hundred square feet, or at least sixty percent of the remaining rear yard area, whichever is less, must be maintained as usable outdoor recreational space.
- C. No boxes, lumber, dirt, or other debris shall be stored, or maintained within five feet of any required building exit, including exit windows.

## **SAN FRANCISCO**

### **Police Code, Sec. 645 Abandoning Refrigerator Equipped with Locking Devices Prohibited.**

It shall be unlawful for any person, firm or corporation to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing said door or lid, snaplock or other locking device from said ice box, refrigerator or container.

In addition to this law, so long as items stored on any private property violates the Nuisance provisions of the San Francisco Health Code (Sec. 581 quoted above) or poses a public health hazard as defined under the Fire Code or the Planning Code, the City departments in question can intervene. However, there is currently no explicit prohibition of outside storage of household items, boxes, lumber and debris for the City of San Francisco.

### **Health Code, Sec. 581 (see above)**

**Housing Code, Sec. 103 Scope (excerpt.)** All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition.

## **PROPERTY BLIGHT**

## **SAN JOSE**

### **San Jose 17.72.505 Unsecured Buildings or Structures**

Any building or structure that is unsecured constitutes property blight. A building or structure is unsecured when either of the following conditions exist:

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- A. The building or structure is inhabited, occupied or used without the consent of the owner or the agent of the owner; or
- B. Unauthorized persons can readily gain entry to the building or structure without the consent of the owner or the agent of the owner.

### **17.72.510 Abandoned Construction**

A partially constructed, reconstructed or demolished building or structure upon which work has been abandoned constitutes property blight. Work is deemed abandoned when there is no valid current building or demolition permit for the work or when there has not been any substantial work on the building or structure for a period of six months or more.

### **17.72.515 Attractive Nuisance**

Any property that is unsecured and constitutes an attraction to children or a harbor for vagrants, criminals or other unauthorized persons, or is in a condition such that persons can resort thereto for the purpose of committing a nuisance or unlawful act, constitutes property blight.

## **SAN FRANCISCO**

### **Building Code, Sec. 100 Policy**

It is found and declared that there exist in the City and County of San Francisco substandard and unsanitary residential buildings and dwelling units whose physical conditions and characteristics render them unfit or unsafe for human occupancy and habitation, and which conditions and characteristics are such as to be detrimental to or jeopardize the health, safety and welfare of their occupants and of the public.

It is further found and declared that there exist in the City and County of San Francisco residential buildings and dwelling units which were legally constructed according to standards now generally recognized to be obsolete and deficient in terms of current, modern housing standards for construction, use, occupancy, light and ventilation and sanitary facilities. The continued existence of these obsolete and deficient residential buildings and dwelling units is detrimental to or jeopardizes the health, safety and welfare of their occupants and of the public.

It is further found and declared that the existence of such substandard buildings by reason of being unsanitary, obsolete and deficient as dwelling units threatens the physical, social and economic stability of sound residential buildings and areas, and of their supporting neighborhood facilities and institutions; necessitates disproportionate expenditures of public funds for remedial action; impairs the efficient and economical exercise of governmental powers and functions; and destroys the amenity of residential areas and neighborhoods and of the community as a whole.

For these reasons it is hereby declared to be the policy of the City and County of San Francisco:

(1) That it is in the public interest of the people of San Francisco to protect and promote the existence of sound and wholesome residential buildings, dwelling units and neighborhoods by the adoption and enforcement of such standards, regulations and procedures as will remedy the existence or prevent the



development or creation of dangerous, substandard, unsanitary or obsolete and deficient residential buildings and dwelling units.

**Building Code, Sec. 106.3.7 Cancellation of application during processing. (Excerpt):**

In the event an extension of time extends the life of an application beyond the effective date of the adoption of a new code, the Director may require that all or part of the application be subject to the provisions of the new code. In the event the corrections have not been made within 21 days before the end of the stated or extended time period, the Department shall notify the applicant by certified mail that the application will be canceled in 21 days unless the plans are made approvable within that time. An application which exceeds the stated or extended time period after such notice shall be deemed canceled without further action by the Department.

**Planning Code, Sec. 202 Use Districts Sec. C:** No use shall be permitted in any R District, C District or M-1 District which by reason of its nature or manner of operation creates conditions that are hazardous, noxious or offensive through emission of odor, fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive noise.

**Housing Code, Sec. 102. Purpose.** The purpose of this Code is to provide for the maintenance of the minimum requirements for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential buildings in San Francisco. In case of any conflict between the provisions of this Code and other provisions of the Municipal Code, the most restrictive shall govern except as set forth in Section 104(a).

### STRUCTURE IN DISREPAIR

#### SAN JOSE

**San Jose 17.72.520 State of Disrepair**

Any building that is in a state of disrepair constitutes property blight. A building or structure is in a state of disrepair when any of the following conditions exist:

- A. Exterior walls or roof coverings have become deteriorated, do not provide adequate weather protection, or show evidence of the presence of termite infestation or dry rot; or
- B. Broken or missing windows or doors that create a hazardous condition or a potential attraction to trespassers; or
- C. Building exteriors, walls, fences, retaining walls, driveways, or walkways that are broken or deteriorated to the extent that the disrepair is visible from a street or neighboring properties; or
- D. Any part of the property, including any building or structure located on the property that is visible from a street or neighboring property, that is defaced with Graffiti.

#### SAN FRANCISCO

Housing Code, Ch. 10, Substandard Buildings, Sec. 1001:

(a) Any residential building or portion thereof, as defined by California Health and Safety Code, Division 13, Part 1.5, State Housing Law, Sections 17920.3 et seq., including any dwelling units, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions enumerated in

this chapter to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building.

b(13) General dilapidation or improper maintenance.

Health Code, Article 26, Lead Poisoning Environmental Investigation, Management and Enforcement Program, sec. 1604. Authority of the Director.

(a) The Director is authorized to administer and enforce the provisions of this Article; to conduct a case management program for elevated blood lead level children; to conduct a program for the remediation of lead hazards in residential and nonresidential buildings, indoor or outdoor property or premises, and dwelling units; to order vacation of any dwelling unit; and to enforce the provisions of this Article by any lawful means. The Director's authority to abate nuisances under this Article shall be in addition to authority granted under other law, including Article 11 of the San Francisco Health Code, and the Director may combine all such authorities to protect persons from lead hazards and to seek collection or reimbursement of nuisance abatement costs. The Special Revenue Fund created under Section 599(e) of the San Francisco Health Code may be used to abate lead hazards in any structure, building or part thereof as provided in Article 11.

## GRAFFITI

### SAN JOSE

**Chapter 9.58 Graffiti abatement.**

### SAN FRANCISCO

**Public Works Code, Sec. 1300 Graffiti Removal and Abatement**

## ABANDONED OR JUNKED VEHICLES

### SAN JOSE

**Municipal Code Ch. 17.72.565 Parking, Storing, or Maintaining Motor Vehicles and Boats**

- A. No Motor Vehicle or Boat that has been wrecked, dismantled or disassembled, or any part thereof, or any Motor Vehicle that is disabled or may not be operated because of the need of repairs or for any other reason shall be parked, stored, or maintained in an area visible from any street for a period of time in excess of seventy-two consecutive hours.

### SAN FRANCISCO

**San Francisco Traffic Code, Sec. 227. Procedures for Abatement of Abandoned Vehicles.**

The procedures for abatement of abandoned vehicles are set forth in Article 9 (beginning with Section 159) and Article 14 (beginning with Section 230) of the San Francisco Traffic Code. The Service Authority for the Abatement of Abandoned Vehicles shall administer the abandoned vehicle abatement program set forth in said Articles 9 and 14 for the abatement of abandoned vehicles located on public property, and shall be subject to all

of their terms and provisions. The Service Authority may adopt all of the terms and provisions of said Articles 9 and 14 as the ordinance it is permitted to adopt by Section 22710 of the California Vehicle Code, but it may not amend any of said Articles 9 and 14 or delete from or add to them without first obtaining approval by ordinance of the Board of Supervisors. The Director of Public Health or his duly authorized agent shall administer the abandoned vehicle abatement program for the abatement of abandoned vehicles from private property pursuant to Article 14. (Added by Ord. 229-92, App. 7/14/92)

## **San Francisco Traffic Code, Article 14 Abatement and Removal of Abandoned Vehicles**

### **Sec. 230. Public Nuisance Findings and Declarations.**

In addition to and in accordance with the determination made and the authority granted by the State of California under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the Director of Public Health or his duly authorized agent hereby makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Ordinance.

### **VEHICLES PARKED ON LAWN OR UNPAVED AREA**

#### **SAN JOSE**

#### **San Jose 17.72.600 Parking on Unpaved Surfaces Prohibited**

- A. No person shall keep, store or park any trailer, Boat or Motor Vehicle on any portion of a front yard or corner lot side yard facing a street or a property designed or used as a residence, except on an area that is paved.
- B. No owner, tenant, manager, or occupant of property designed or used as a residence shall allow or suffer another person to keep, store or park any trailer, Boat or Motor Vehicle on any portion of a front yard or corner lot side yard facing a street, except on an area that is paved.

#### **SAN FRANCISCO**

**Planning Code, Sec. 132(f) Permitted Obstructions.** Only those obstructions specified in Section 136 of this Code shall be permitted in a required front setback area, and no other obstruction shall be constructed, placed or maintained within any such area. No motor vehicle, trailer, boat or other vehicle shall be parked or stored within any such area, except as specified in Section 136.

**Planning Sec. 133(d)** Only those obstructions specified in Section 136 of this Code shall be permitted in a required side yard, and no other obstruction shall be constructed, placed or maintained within any such yard. No

motor vehicle, trailer, boat or other vehicle shall be parked or stored within any such yard, except as specified in Section 136.

## HOME AUTO REPAIR

### SAN JOSE

#### **Sect. 17.72.585 Activities Prohibited on Property Designed or Used as a Residence**

Subject to Section 17.72.585 the following activities on any property designed or used as a residence constitutes property blight:

A. Wrecking, dismantling, disassembling, manufacturing, fabricating, building, remodeling, assembling, repairing, painting, or servicing, in any setback area, of any airplane, aircraft, Motor Vehicle, Special Mobile Equipment, Boat, Trailer, machinery, equipment, appliance or appliances, furniture or other personal property.

### Exclusions

This Chapter shall not prohibit the following:

- A. An owner, lessee, or occupant of the property from repairing, washing, cleaning or servicing personal property that is owned, leased, or rented by the owner, lessee, or occupant of the property so long as any repairing or servicing performed shall be completed within a seventy-two consecutive hour period.
- B. Repairing or servicing of a Motor Vehicle or part thereof within a completely enclosed building in a lawful manner where it is not visible from the street or other public or private property.

### SAN FRANCISCO

#### **Fire Code, Article 29, Sec. 2901.1.1 Vehicle Repair in Residential Premises.**

Residential buildings and premises shall not be used for service and repair of motor vehicles.

Exceptions:

- 1. Work performed on a vehicle registered to a resident of the building if performed by the vehicle owner or a member of the immediate family.
- 2. Work performed by a mobile vehicle service.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109**  
**(415) 771-6000**

**CLERK OF THE BOARDS OFFICE:**  
**MONTHLY CALENDAR OF DISTRICT MEETINGS**  
**MARCH 2003**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting	Wednesday	5	9:45 a.m.	Board Room
Advisory Council Public Health Committee	Monday	10	1:30 p.m.	Room 716
Advisory Council Executive Committee	Wednesday	12	9:00 a.m.	Room 716
Advisory Council Regular Meeting	Wednesday	12	10:00 a.m.	Board Room
Board of Directors Mobile Source Committee	Thursday	13	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
Board of Directors Regular Meeting	Wednesday	19	9:45 a.m.	Board Room
Board of Directors Stationary Source Committee	Wednesday	19	11:00 a.m.	Board Room
Advisory Council Air Quality Planning Committee	Tuesday	25	9:30 a.m.	Room 716
Board of Directors Budget & Finance Committee	Wednesday	26	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

MR:mr  
2/28/03 (9:53 a.m.)  
P/Library/Calendar/Moncal

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109  
(415) 771-6000

**CLERK OF THE BOARDS OFFICE:  
MONTHLY CALENDAR OF DISTRICT MEETINGS  
APRIL 2003**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Advisory Council Technical Committee	Tuesday	1	9:30 a.m.	4 <sup>th</sup> Floor Conference Room
Board of Directors Regular Meeting	Wednesday	2	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee	Thursday	10	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
Board of Directors Public Outreach Committee	Monday	14	10:00 a.m.	4 <sup>th</sup> Floor Conference Room
Advisory Council Public Health Committee	Monday	14	1:30 p.m.	Room 716
Board of Directors Regular Meeting	Wednesday	16	9:45 a.m.	Board Room
Regional Agency Coordinating Committee (RACC)	Friday	18	1:30 – 3:30 p.m.	MTC 101 Eighth Street Oakland, CA 94607
Board of Directors Budget & Finance Committee	Wednesday	23	9:30 a.m.	4 <sup>th</sup> Floor Conference Room
Board of Directors Executive Committee	Wednesday	30	9:30 a.m.	4 <sup>th</sup> Floor Conference Room

MR:mr  
2/24/03 (11:05 a.m.)  
P/Library/Calendar/Moncal







(OLA #: 029-02)

**LEGISLATIVE ANALYST REPORT**

**To:** Members of the Board of Supervisors  
**From:** Adam Van de Water, Office of the Legislative Analyst  
**Date:** April 2, 2003

41 Library  
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**DOCUMENTS DEPT.**

**RE: Criminal Justice Offender Profile (File # 021527)**

**APR - 3 2003**

**SUMMARY AND SCOPE OF WORK**

SAN FRANCISCO  
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Supervisor Daly, through the Board, requested that the Office of the Legislative Analyst (OLA) analyze San Francisco's criminal justice system with a specific emphasis on the city's offender profile (race, ethnicity, age, sexual orientation and neighborhood of participants) relative to Alameda County. In addition, Supervisor Daly requested that the OLA describe current alternatives to incarceration as well as the cost effectiveness and efficacy of rehabilitation programs.

**EXECUTIVE SUMMARY**

San Francisco's racial, ethnic, and gender profile compares closely with that of Alameda County, with the primary exceptions that San Francisco has a higher percentage of Asian or Pacific Islander residents and a lower percentage of Black or African American residents.

This holds largely true within the continuously changing incarcerated population. At a rate of 257 per 100,000 residents, San Francisco has a slightly lower incarceration rate than Alameda County with 274 per 100,000 residents.

Snapshots of San Francisco's approximately 2,200 inmates show that over half are Black/African American, nearly nine out of ten are male, three quarters are awaiting sentence, and nearly half are held for drug crimes. Of the 956 held for a drug-related charge, nine out of ten were held for possession or sale of a narcotic or opiate and less than one out of ten were held for possession or sale of marijuana.

The San Francisco Sheriff's Department does not maintain statistics on the sexual orientation or home neighborhood of offenders.

**THE SAN FRANCISCO INCARCERATED POPULATION**

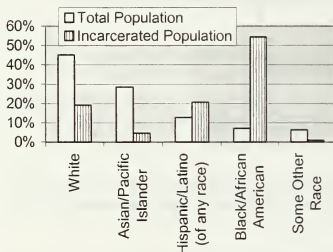
The San Francisco incarcerated population of approximately 2,200 inmates includes sentenced and un-sentenced offenders, out-of-county holds, juvenile warrants, and holds for state or federal

correctional organizations (California Department of Corrections, INS, etc)<sup>1</sup>. Inmates are held at SF General Hospital and six county jails including approximately 350 males in San Bruno County Jail #7, which the Mayor has proposed to close in the upcoming budget year. Demographic information on the incarcerated population comes primarily from 'snapshots' taken on a given day, which may or may not accurately reflect the average population.

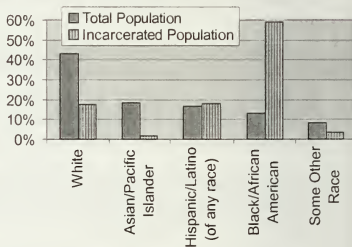
### Gender/Race/Ethnicity

On June 5, 2002 the San Francisco Sheriff's Department (SFSD) took a snapshot of the incarcerated population broken down by gender, race and ethnicity. It found that 55 percent of the 1,995 inmates held on that date were African American, 21 percent were Latino or Hispanic, 19 percent were Caucasian, five percent were Asian or Pacific Islander, and the remainder were of some other race. On the same date, the survey found that 87 percent were male and 13 percent were female. This compares very closely to information provided by the Alameda County Sheriff's Office from just 10 days later, which found very similar gender and racial breakdowns of Alameda County's incarcerated population (see charts 1 and 2 below).

**Chart 1: San Francisco Profile --  
Total vs. Incarcerated Population**  
Census 2000, June 2002 SFSD Data



**Chart 2: Alameda County Profile --  
Total vs. Incarcerated Population**  
Census 2000, June 2002 ACSO Data



Overall this translates into the following incarceration rates:

Incarceration Rates per 100,000 Residents	
San Francisco	257
Alameda County	274

*Source: Census 2000; June 2002 ACSO, SFSD Jail Population Surveys*

### Booked Offense

On September 1, 2002, the San Francisco Sheriff's Department (SFSD) conducted another population survey, categorizing all 2,122 inmates held on that date by booked offense<sup>2</sup>. The

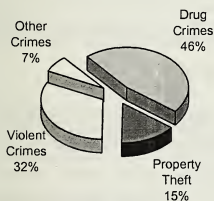
<sup>1</sup> This analysis focuses on inmates in the county jail system and does not include parolees or others not physically housed in the system.

<sup>2</sup> Susan Fahey, Public Information Officer for SFSD, maintains that the total jail population has risen since this time and currently averages close to 2,200 inmates. Where an inmate was held on charges for more than one offense, the

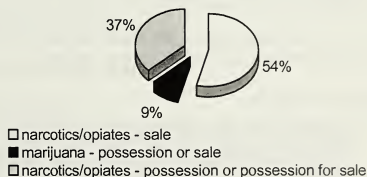
survey found that 46 percent of all inmates held on that date were held on drug offenses (sale or possession), 32 percent were held on violent crime offenses (murder, rape, assault, battery, etc.), 15 percent were held on property theft charges, and the remaining seven percent were held for other charges (see Chart 3 below). These figures were largely mirrored in an earlier analysis by the not-for-profit Center on Juvenile and Criminal Justice on Monday February 18, 2002.

On February 24, 2003, SFSD conducted a hand count of all 956 inmates held for drug charges in SF County Jails. The count found that 54 percent were held for sale of opiates or narcotics, 37 percent were held for possession or possession for sale of opiates or narcotics, and the remaining nine percent were for possession or sale of marijuana (see Chart 4 below).<sup>3</sup> Interestingly, in a survey of California's twelve largest counties conducted by the Center on Juvenile and Criminal Justice, San Francisco had the state's highest arrest rate for drug felonies and its lowest for drug misdemeanors<sup>4</sup>. According to the authors, "a disproportionately high number of arrests charges in San Francisco are reduced in the early stages of court processing. This reflects a historical pattern of inflated charging policy by the SF Police Department."

**Chart 3. San Francisco Charges for All Inmates Held Sept 1, 2002**



**Chart 4: SFSD Breakdown of All 956 Drug Charges 2/24/03**



## Age

A Goldman Fund study provided by Assistant Sheriff Michael Marcum provides a high-level summary of the age distribution of the San Francisco inmate population in 2001 (see Table I below). This is currently the only age breakdown of the San Francisco inmate population available and cannot constructively be compared to Alameda County's jail population profile.

**Table I: Age Distribution of the 2001 San Francisco Inmate Population**

	Youngest 20%	Middle 30%	Oldest 50%
Male	18-23 yrs	24-32 yrs	34 + yrs
Female	18-23 yrs	24-32 yrs	33 + yrs

Source: SFSD Goldman Fund study.

more 'serious' offense was listed as the offense. Therefore, if a custody was charged with felony drug possession and misdemeanor assault, for example, the case was categorized as a drug offense.

<sup>3</sup> These offenses are governed by Sections 11350 – 11360 of the California Health and Safety Code and were classified by SFSD by the most serious charge for each person.

<sup>4</sup> Males, Macallair, and Jamison. *Drug Use and Justice 2002: An Examination of California Drug Policy Enforcement*, November 2002. Online at [http://www.cjcj.org/pubs/cadrag\\_2002/cadrag2002pr.html](http://www.cjcj.org/pubs/cadrag_2002/cadrag2002pr.html). According to the authors

### Sexual Orientation and Neighborhood

According to Susan Fahey, SFSD Public Information Officer, SFSD does not currently track data on inmates' sexual orientation or neighborhood of residence. In addition, SFSD does not currently have the data capacity to connect racial/ethnic/gender information with booking charges for all inmates.

### Sentencing

A jail population study taken at 9:00 am on the morning of February 18, 2002 by Alissa Riker of the non-profit Center on Juvenile and Criminal Justice found that, of the 2,052 inmates who had San Francisco charges, 465 (23 percent) were sentenced and 1,572 (77 percent) were not sentenced. An additional 15 inmates had one case that was sentenced and another that was not sentenced.

### REHABILITATION

SFSD has a number of rehabilitation programs aimed at improving education, breaking the cycle of violence, and reducing substance abuse addiction to prepare inmates for successful re-entry after release.

At the time of writing of this report, SFSD was unable to provide discrete cost information for their various alternative and rehabilitation programs.

### Violence Prevention

- *Resolve to Stop the Violence Project (RSVP)* is the first violence prevention program of its kind in the nation, incorporating victim impact, offender accountability, and community involvement to reduce violent crime recidivism.

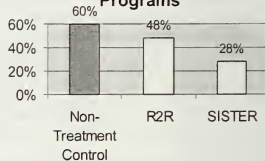
### Substance Abuse

- *Roads to Recovery (R2R)* is an in-custody drug treatment program in County Jail #7 that combines life skills with drug intervention services;
- *Sisters in Sober Treatment Empowered in Recovery (SISTER)* is a drug treatment, counseling, educational, and vocational program for women in County Jail #8;
- SFSD also has Alcoholics and Narcotics Anonymous, substance abuse counseling and acupuncture detoxification.

### Education

- SFSD offers high school equivalency (GED) teaching, English as a Second Language (ESL) classes, literacy tutoring, computer classes, ethnic and women's studies, art, theater, health education, library materials, and screening for learning differences and disabilities.

**Chart 5: 2003 Recidivism Rates for Roads to Recovery and SISTER Programs**



### Vocational

- *The Garden Project* is a post-release program that pays former offenders a living wage to plant and maintain trees and grow organic vegetables and herbs;
- Other programs include job readiness programs and basic electrical wiring.

### Counseling

- SFSD offers an array of counseling services ranging from AIDS workshops to parenting skills, anger management, stress reduction, yoga and meditation, gay life skills, and discharge planning.

### Mental Illness

- SFSD's Connections Program provides non-violent mentally ill offenders temporary housing, case management, treatment referral, educational services and employment opportunities once they are released from jail.

In addition to these SFSD programs, the San Francisco Drug Court provides intervention, treatment, and rehabilitation for eligible non-violent drug defendants. Typically defendants with an underlying serious substance abuse problem who have yet to enter a plea or have yet to receive a judgement from the court can be referred to the Drug Court where they spend one year completing required treatment programs and securing stable housing and employment. A collaborative effort of eight city departments and offices, the San Francisco Drug Court has graduated 500 participants since its creation in March 1995.

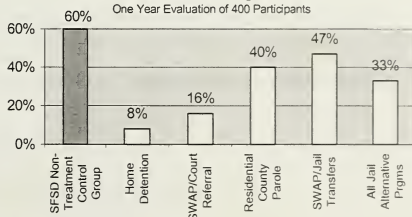
## ALTERNATIVES TO INCARCERATION

Current SFSD alternatives to incarceration include:

- Home Detention, which monitors prisoners by a radio-signal anklet and a video monitor;
- the Sheriff's Work Alternative Program (SWAP) and Post Release Education program (PREP), which provides educational classes and street cleaning work crews for prisoners within 90 days of their jail completion date; and,
- Residential County Parole, which places eligible prisoners in licensed residential substance abuse programs after in-jail program participation or court referral for six-month periods.

Chart 4 at right shows one-year recidivism rates for these alternatives compared with a non-treatment control group. As shown in the chart, nearly two-thirds of all inmates who were released without an alternative to incarceration (the non-treatment control group) committed a repeat offense while those who were enrolled in alternative programs (all jail alternative programs) had a much lower recidivism rate of 33 percent<sup>5</sup>.

**Chart 6: 2003 Recidivism Rates for SFSD  
Alternative Programs:**  
One Year Evaluation of 400 Participants



<sup>5</sup> Eligibility requirements do apply for all alternative programs, which may partially explain the different recidivism rates.



Another source of information on alternatives to incarceration is the not-for-profit Center on Juvenile and Criminal Justice's October 1999 publication, *Shattering "Broken Windows": An Analysis of San Francisco's Alternative Crime Policies*. This report can be found on the Center's Web-site at [www.cjcj.org/pubs](http://www.cjcj.org/pubs).



## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Sasha Polonsky, Office of the Legislative Analyst  
DATE: April 25, 2003  
SUBJECT: Assess Funding for DNA Crime Lab (File No. 021905)

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### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor Daly) requesting the Office of the Legislative Analyst to assess funding for crime labs and DNA testing in comparable cities, identify the current backlog at the San Francisco Police Department Crime Lab, and provide recommendations on how to increase capacity and efficiency at the crime lab.

### EXECUTIVE SUMMARY

The Forensic Biology Section of the San Francisco Police Department Crime Lab offers services that routinely implicate guilty individuals and/or exonerate innocent parties from suspicion. Criminalistic case requests, such as DNA typing, for the City and County of San Francisco have increased in recent years. Forensic biology is very labor-intensive and very expensive. Due to a severe staffing shortage, the Forensic Biology Section of the San Francisco Lab is unable to provide an adequate level of service. Specifically, the Lab's criminalists struggle to meet demands of homicide and sexual assault investigations and routinely are unable to investigate cases. Many comparable city crime labs report similar case backlogs and staffing deficiencies, while others, namely San Diego, have managed to eliminate their case backlog entirely.

The Board of Supervisors should consider a variety of options in order to increase staffing for the crime lab. Successful operation of the Forensic Biology Section at full capacity lies squarely in the retention and expansion of the number of highly trained and dedicated permanent DNA Criminalists, according to Martha Blake, Crime Lab Manager, and Cyndie Holt, Forensic Biology Section Supervisor. Possibilities for improvement include:

- Employee retention
- SFPD employee reallocation to Forensic Biology Unit
- General laboratory upgrades
- Adoption of "best practices" utilized successfully in the San Diego Crime Lab

## **BACKGROUND**

### **Overview of San Francisco Crime Lab**

#### ***Organization and Mission***

The San Francisco Police Department Crime Lab functions to provide evidence testing services for the Police Department and other City and County agencies and departments. The crime lab is divided into three units, including:

- DNA Testing (Biological)
- General Criminalistics (Firearms, Trace Evidence, Questioned Documents)
- Narcotics/Chemical Testing

The types of evidence and materials analyzed include blood and other bodily fluids, firearms, narcotics and other controlled substances, trace evidence collected from crime scenes, and breath alcohol results. Samples stored in the DNA databank include two separate catalogues: one of crime-scene evidence, the other of samples from convicted offenders.

Requests posed to the lab can be simple, such as "Did x bullet come from y gun?" They can also be complex, such as a case in which field evidence technicians extract 65 different samples of blood spattered on a wall. Samples of that complexity take longer to screen.

Investigation of DNA evidence falls into two primary categories: homicide and sexual assault cases where a suspect(s) is named, and homicide and sexual assault cases where a suspect(s) is not named. Advances in technology for DNA typing in recent years have encouraged the investigation of "old" homicide and sexual assault cases. The purpose for reopening investigations is either to exonerate a convicted suspect (often in prison) or to implicate a suspect by matching a DNA "forensic unknown" in a database with a convicted felon. Crime-solving by the latter method is referred to as a Cold Hit.

#### ***Case Load***

According to San Francisco Crime Lab sources, the lab receives almost 14,000 new case requests annually, of which in FY 01-02, approximately 200 cases (in addition to 535 cases from accumulated backlog) were for DNA typing. (See Crime Lab backlog section of this report for further details).

#### ***Staffing***

Crime Lab staffing for 2002 included 18 full-time employees. Among these were one crime lab manager, three senior criminalists, eight criminalists, one forensic document examiner, one senior clerk typist, and four light duty officers. In addition to this staff, there are four criminalists funded by the Cold Hit grant through the Office of Criminal Justice Planning (OCJP), a statewide initiative to facilitate examination of cases with no suspect and a sexual component (e.g. samples of semen or blood). The group systematically analyzes only old evidence for "cold hits." As a result, these four professionals will not be salaried when the grant expires in September of 2003.

Currently, the Forensic Biology Section has two permanent DNA Criminalists and one detailed SFPD Inspector/Scientist. This staffing level is severely limited in comparison with other state labs. Furthermore, during the past 10 months, one of the two scientists was on maternity leave and the detailed Inspector/Scientist was temporarily reassigned within SFPD. Therefore, during this period, one scientist provided all of the Forensic Biology and DNA typing services for the City and County of San Francisco. This type of situation could be avoided most simply with an increase in permanent DNA Criminalists.

### *Timing of Cases*

According to Jim Norris, Forensic Services Division Director at the San Francisco Police Department, a typical case takes about six months to be screened, analyzed, recorded and reported. Though it only takes three to four weeks to perform a test on a sample found at a crime scene, the lab is unable to do the work within this time frame, due to the backlog and staffing deficiency.

**Table I. Typical Time to Completion of DNA Typing  
With and Without a Case Backlog<sup>1</sup>**

	<b>Biological Screening</b>	<b>DNA Typing</b>	<b>Total Time</b>
<b>Without Backlog</b>	<b>1 to 4 weeks</b>	<b>2 to 8 weeks</b>	<b>3 to 12 weeks (<math>&lt;1</math> to 3 months)</b>
<b>With Current Backlog</b>	<b>8 to 16 weeks</b>	<b>12 to 24 weeks</b>	<b>20 to 40 weeks (5 to 10 months)</b>

Theoretically, DNA evidence can be recovered from properly stored items over long periods of time. DNA evidence becomes less valuable over time because the ability to effectively investigate and litigate a case becomes more and more difficult as time passes. Case processing time is also affected by the statute of limitations, ability to locate witnesses and other key pieces of information, the ability of a witness to recall information or locate important materials, etc. Additionally, delays in processing DNA evidence may lead to further crimes by the perpetrator who remains at large or to undue detainment of those who would be cleared using DNA typing.

### **Crime Lab Funding**

*Funding Sources for the SFPD's Crime Lab Include \$1.8 million from the City's General Fund, and \$1.3 million from State Grants*

The SFPD Crime Lab budget for FY 2001-2002 was comprised of two primary sources: the city's General Fund, and grants. The General Fund budget totaled approximately \$1.8 million, and grants totaled approximately \$1.3 million (see Table V in the Appendix for more detail of budget breakout).

Due to significant increases in examination requests for DNA casework (including Cold Hit) and narcotics and firearms submissions, the lab has requested an additional \$100K for materials and supplies in their 2003-2004 budget request.

<sup>1</sup> Includes analysis time from request date through issuance of Report of Laboratory Examination to requesting agency (Source: Martha Blake, Crime Lab Manager, Cyndie Holt, Forensic Biology Section Supervisor)

The two grants included in the Criminalistics Laboratory budget are detailed below. The Cold Hit grant pays for salaries of four criminalists who are assigned exclusively to analysis of old evidence sexual assault cases. The expiration of this grant in September of 2003 will incur substantial loss of resources to the Lab. The LFLIP grant was a one-time funding allocation to support facility improvements and ensure better evidence security. Modifications, such as an HVAC upgrade, were designed to ready the Lab to apply for accreditation.

**TABLE II<sup>2</sup>. Budget Sources (2001/2002) for the SFPD Criminalistics Laboratory**

Budget Source	Approved Funds To Date	Percentage of Total Laboratory Budget	Grant Termination
LFLIP Grant <sup>3</sup>	\$ 893,307	28.4%	April 2004
COLD HIT <sup>4</sup> Grant	\$ 455,655	14.5%	September 2003
City General Fund	\$1,800,900	57.2%	
<b>TOTAL</b>	<b>\$3,149,862</b>	<b>100%</b>	

### Crime Lab Backlog

#### *Definition/Overview of Backlog*

Case backlog is defined as requests for service that are not yet assigned to an analyst. According to the US Department of Justice, cases are designated as backlogged based on their classification and waiting period before analysis. More specifically, there is a different standard for sets of unidentified samples versus convicted offender samples. Complete sets of unknown samples are considered backlogged if they are ready for analysis in the laboratory for more than 15 days, and convicted offender samples are considered backlogged if samples are in the lab for more than 10 days.

The primary sources for the San Francisco Police Department Crime Lab's backlog are twofold. The Crime Lab struggles with severe and well-documented understaffing compared to other laboratories serving similar population sizes and numbers of case requests. In addition, a shortage of equipment causes delays in case flow since the Lab staff is expected to enter results of forensic analyses into local and national databases with an insufficient number of terminals, according to Crime Lab manager Martha Blake. For example, tracking evidence and performing the required database entry of narcotics and firearms cases with only one computer terminal causes delays when there are six individuals capable of inputting this data.

<sup>2</sup> Ibid

<sup>3</sup> Local Forensic Laboratory Improvement Program, California Governor's Office of Criminal Justice Planning; includes facility improvements, training and equipment as required to further qualify the Laboratory for accreditation by ASCLD-LAB (American Society of Crime Lab Directors – Laboratory Accreditation Board).

<sup>4</sup> California Governor's Office of Criminal Justice Planning; includes equipment, operating expenses and four DNA Criminalists to examine suspectless sexual assault and homicide case evidence and enter DNA data into the National and State DNA database (CODIS)

## Cases Received and Current Backlog

**TABLE III<sup>5</sup>**  
**Approximate Number of Case Requests Received Annually -**  
**SFPD Criminalistics Laboratory**

LABORATORY UNIT	REQUESTS RECEIVED <sup>6</sup> - Calendar Year 2002	ACCUMULATED BACKLOG
Controlled Substances	13,000	0
Firearms	500	200
Forensic Biology (DNA)	200	535
Questioned Documents	85	0
Trace Evidence (e.g., gunshot residue, arson)	40	20

### Sources of Backlog

#### Intensity of Demands

The San Francisco Crime Lab struggles to meet the ever-increasing demands for forensic analysis, especially since DNA analysis is now considered the new gold standard for criminal investigation. A similar revolution took place with the introduction of AFIS, the Automated Fingerprint Identification System, over two decades ago. As juries, District Attorneys, and the general public become aware of the technological possibilities involved with DNA testing, expectations and demands for analysis of such evidence continue to increase exponentially. Importantly, the Cold Hit program has in two years already identified 14 suspects in San Francisco in cases that were presumed closed. This demonstrated success exacerbates demand, according to crime lab staff.

There is no backlog in controlled substances or controlled documents, primarily because of the simplicity of analysis in comparison with DNA typing. Narcotics and document samples require one simple test, instead of a series of complicated tests required by DNA samples. Also, the District Attorney often demands immediate

<sup>5</sup> Martha Blake, Crime Lab Manager; Cydne Holt, Forensic Biology Section Supervisor

<sup>6</sup> Numbers of "Requests Received" represent submitted Requests for Laboratory Examination (SFPD form 64) and do not represent the number of actual exhibits examined. Please see the examples below:

- Example 1: A typical Controlled Substances case involves approximately three exhibits. Therefore, the actual number of items tested for 13,000 annual requests is approximately 40,000.
- Example 2: A typical Questioned Documents case involves numerous exhibits, often fifty or more. Therefore, the actual number of items tested for 85 annual requests is approximately 4,300.
- Example 3: A typical Forensic Biology case involves several evidence specimens, often twenty or more. Therefore, the actual number of items tested for 200 annual requests is approximately 4,000.
- Example 4: A typical firearms case involves examination of approximately four firearms and numerous cartridge casings and/or bullets. Therefore, the actual number of items tested for 500 annual requests is more than 5,000.



results from narcotics analysis in order to meet timelines for release and rebooking of prisoners. The DA's office requires this rapid turnaround of evidence analysis.

The Lab has difficulty meeting demands of homicide and sexual assault cases where a suspect is named (first priority), and is routinely unable to investigate homicide and sexual assault cases where a suspect is not named. Furthermore, the Lab is often unable to investigate "old" homicide and sexual assault cases, with a named suspect, that are solvable using DNA typing, and is routinely unable to investigate cases other than homicides and sexual assaults (e.g. felon in possession of a firearm, assault, attempted homicide, robbery, and burglary).

The Lab receives escalating demands to meet discovery requests of the local defense bar, the Public Defender's Office and the District Attorney's Office. For example, the Public Defender's Innocence Project allows for post-conviction DNA typing to exonerate the falsely incarcerated. Time constraints and expectations of the judicial system (e.g. potential release of "no time waiver" defendants due to evidence delays) add more pressure. According to Assistant District Attorney Elliot Beckelman, the trial process is very lab-dependent. "The backlog has an immediate effect on public safety in San Francisco," Mr. Beckelman said. "It is stunning in terms of public safety, especially given the recidivism of sex crimes. If we can't do a quick and dirty analysis of a sample, we can't issue an arrest warrant on a rapist or child molester, in plain terms. I would say the DNA crime lab is more responsible for making the streets safe than are fifty cops, in terms of identifying people who commit similar types of crime." Mr. Beckelman commended the San Francisco Crime Lab on the quality of its work, adding the comment that they would improve the trial and conviction process tremendously if given additional funding.

Finally, without additional staffing, the Lab will lose its entire ability to investigate Cold Hit sexual assault cases when the Cold Hit grant expires in September 2003. The requisite background and skill-set for a trained DNA technician is particular and extensive. Technicians must have completed prior coursework in molecular biology and genetics, and be equipped to deal with the substantial rigor of DNA analysis, which requires far more careful labwork than does traditional serology. The Lab has attempted in the past to cross-train employees to perform DNA analysis, but results were unsuccessful. Criminalists who work in narcotics are most often chemists who lack the necessary biology background to perform DNA analysis. Other criminalists have varying and disparate backgrounds – one document examiner, as an example, holds a degree in botany. According to Crime Lab Director Martha Blake, these individuals are not capable of meeting the rigors of current DNA analysis – their techniques are "too sloppy; they are better off doing dope full-time," according to Ms. Blake.

### **Crime Lab Facility**

A building at Hunter's Point Naval Shipyard (Building 606) houses the Criminalistics Laboratory and other SFPD operations, such as Special Operations and Security Division. The Lab moved to this location from the Hall of Justice at 850 Bryant Street in October of 1999. The facility currently faces several challenges to daily operations, including: basic utilities, phone system, Internet connectivity, information management, and physical space. The following descriptions of infrastructure limitations were provided by San Francisco Crime Lab Manager Martha Blake.

Basic Utilities: The physical location of the building on an abandoned naval shipyard severely hampers the ability of the employees to work effectively. Interruptions in power and water service are frequent. Interruption in power (supplied by Pacific Gas & Electric) disrupts work for obvious reasons and also puts evidence integrity at risk due to unstable freezer temperatures. Power outages occur approximately twice per month. Without a backup generation system (which would run the Lab approximately \$100,000), the Lab faces grave

consequences in terms of evidence storage, especially with certain evidence stored at low temperatures in freezers. Interruption in water flow causes work to cease due to the nature of scientific analysis with hazardous materials.

Phone System: The phone systems within the building are at maximum usage, with lines already being split for multiple employees. Network connections and other communications systems routinely experience problems.

Internet Connectivity: Category 5 cable for network connections was installed throughout the downstairs floor of building 606 when the laboratory moved in. However, the number and location of the network plugs are not (and never have been) sufficient to handle the current needs of the laboratory. The absence of network connections prevents information exchange and limits the ability of the scientists to efficiently analyze data and report findings. The location of the building also does not allow the building access to Internet connectivity. The laboratory is currently dependent on dialup connections at rates of speed that were modern in the mid-1980s. The current slow connection does not allow for easy information exchange into or out of the building.

LIMS: The SFPD Laboratory does not currently use a Laboratory Information Management System (LIMS), a system employed by modern laboratories to record data, exchange information and report findings. The SFPD thus must rely on traditional, slow methods of generating data and reports.

Physical Space: Inadequate dedicated office space has forced the Laboratory to erect temporary cubicles within laboratory space and other unconventional and inconvenient "band-aids." Building 606 consists of two floors, with the entire Laboratory (office space and Lab facilities) on the first floor and other operations on the top floor. The DNA portion of the lab occupies 3,500 square feet of the Lab's total 13,000 square feet. As there is no designated administrative or office space, desks and computer terminals share space with laboratory equipment. According to Forensic Biology Section Supervisor Cydne Holt, reorganizing the Lab to accommodate dedicated office space, with perhaps a 25 percent space increase, would create a safer and more efficient environment. Furthermore, better utilization of "dead space" at Building 606 would better serve SFPD, according to Crime Lab Director Martha Blake.

### ***Backlogs are a National Problem***

Crime lab backlogs and budget crunches are pervasive throughout the U.S. Across the nation, frustrated forensic scientists are grappling with swelling backlogs of genetic evidence because they lack the money to buy needed equipment or hire and train new staff members. The National Institute of Justice now estimates that there are more than 350,000 DNA samples nationwide from rape and homicide cases pending analysis. The FBI alone has a backlog of about 1,000 cases. In response, the Bush administration recently announced (March 2003) a proposal to eliminate crime lab backlogs by asking Congress for \$1 billion over the next five years to expand DNA testing and improve the technology. The money would also be used to expand the number of convicted criminals whose DNA could become part of a national FBI database. As yet, this proposed budget has not been approved by Congress, and it is unclear how it will be allocated, or whether California crime labs would receive additional grants.

### **Comparable Cities**

The exercise of drawing comparisons between San Francisco and other city crime labs is not straightforward. While attempts have been made by the American Society of Crime Laboratory Directors (ASCLD) to maintain some degree of uniformity or standardization of counting practices at crime labs, the efforts were ultimately

abandoned. As such, laboratories have vastly different methods for recording and counting case requests and work completed. This fact must be taken into account when comparing San Francisco's Lab with that of other cities. In a 2001 survey of DNA crime laboratories published by the Department of Justice, US laboratories reported a mean forensic lab budget of \$3,091,000 for FY 2000-01. The maximum reported was \$13 million. Of 110 laboratories surveyed, full-time staffs ranged from one employee to 60 employees for FY 2000-01.

### *Oakland*

The Oakland Police Department Crime Lab sustains a backlog in latent print, firearms, and Forensic Biology (DNA analysis). There is no backlog in drug cases.

In 2002, the lab received 5,792 drug cases, of which 3,247 required analysis. The lab only analyzes cases that are going to be charged, or those cases that support a charge. This differs from San Francisco's practice of testing all cases. Turnaround for drugs is reportedly 24 hours, according to crime lab director Mary Gibbons.

The lab received 1,390 latent print samples in 2002 across three categories. Of these 1,390 samples, a total of 660 cases were backlogged by the end of 2002 as follows:

- Named comparison sustained a backlog of 35 requests by the end of 2002
- Computer entry sustained a backlog of 300 cases by the end of 2002
- Latent print processing (chemical/dusting methods) sustained a backlog of 325 cases by the end of 2002.

The backlog in major criminalistics by the end of 2002 was 545 cases (running backlog). Out of 232 requests received during the year, 144 requests were analyzed and reported.

The cumulative backlog for traditional DNA cases by the end of 2002 was 183 cases. Of 52 traditional case requests in 2002, the lab completed 40 cases. Oakland's Crime Lab reports traditional DNA cases and Cold Hit cases separately. The Lab has received a total of 443 Cold Hit requests since 2000, with sustained backlog by the end of 2002 totaling 193 Cold Hit cases. These numbers were reported by Oakland crime lab director Mary Gibbons.

Oakland's crime lab director attributes the current backlog to staffing and funding deficiencies. The lab employs 20 technical staff (including the crime lab director) and one non-technical office clerk. Five employees (two latent print examiners, one DNA analyst, and two DNA technicians) are funded exclusively by grant money. Full-time positions in the Biology Program (DNA testing and screening of bodily fluids) total eight, although one position is currently vacant and one individual is currently in training. Recently, the department asked for additional funds from Oakland's General Fund. Their budget runs in two-year cycles. The director asked that the lab's general budget allocation be increased from approximately \$1.6 million to between \$2.2 and \$2.4 million. This allocation would offset reductions in other grant money. According to the crime lab director, the budget increase would accommodate permanent funding for at least two of the three professionals currently employed under the Cold Hit grant.

### *Los Angeles*

The Los Angeles Criminalistics Laboratory is one of two divisions under the LAPD's Scientific Investigation Division (the other is the Technical Laboratory). While many crime labs group these two divisions together,

Los Angeles separates the handling and analysis of latent prints, photography, polygraphs, documents, and electronics into a separate unit, under the Technical Laboratory.

The LAPD Crime Lab outsources casework frequently, on an as-needed basis. At present, the Lab outsources approximately 80 percent of their DNA profiling, according to assistant laboratory director Greg Matheson. Currently, the Lab does not have the resources to do DNA profiling on all of their cases. Their Criminalists screen cases for biological evidence, and subsequently send the samples to a private lab for analysis. According to Mr. Matheson, the cost of DNA profiling has been determined to be between \$700 and \$800 per sample.

The LAPD Crime Lab does not maintain statistics of annual case backlog, but does keep track of case requests on a weekly basis. According to Mr. Matheson, backlog for DNA analysis cases at the end of 2002 was 726. This number can be added to a total DNA analysis request tally of 1,223 cases for DNA evaluation in FY 2002, bringing the total number of requests to 1,949. Crime Lab sources attribute the source of backlog to insufficient staff to meet the ongoing need.

The LAPD Crime Lab reports a staff that is continually "in flux," but numbers to date indicate a DNA unit of 24 individuals. This number includes: one supervising criminalist, eighteen criminalists (three are funded by the State's Cold Hit grant), four laboratory technicians, and one student professional worker. All criminalists in this division are trained as field evidence technicians as well as DNA analysts. Mr. Matheson noted that the three criminalists funded by the Cold Hit grant will continue to work as full-time employees after the grant expires. In the city of Los Angeles, once a grant is approved, the city takes responsibility to fund the full-time positions made available by the grant when the grant expires. For this reason, grant proposals are scrutinized and require long periods of deliberation before approval.

Almost all funding for the LAPD Crime Lab is through the Police Department's budget, which totaled \$1.3 billion in 2002. LAPD sources estimate that funding for the two Scientific Investigation divisions (Technical Lab and Criminalistics Lab) is approximately \$12 million, with approximately \$6 million of that amount allocated to the Criminalistics Laboratory. Sources reported that a detailed crime lab budget is "next to impossible" to quantify, as funding for various divisions of LAPD is not clearly delineated in the Department's budget. In addition, the department has a small account called the Narcotics Analysis Trust Fund, which is used for training and limited equipment acquisition.

### *San Diego*

The San Diego Crime Lab is a benchmark of success. The lab has sustained no backlog for one year. The lab's staff of 13 professionals serves a population of about 1.3 million, offering the community a one-to-one hundred thousand ratio that few other labs are able to boast.

Crime Lab supervisor Patrick O'Donnell attributes the lab's success to an effective method of managing cases. The first tactic for success involves a system of constant communication aided by the proximity in location of the crime laboratory and the investigative units they serve, such as sex crimes and homicide. This allows the DNA Laboratory supervisor Mr. O'Donnell to constantly negotiate the number and extent of the cases worked on. Another successful tactic has been development of a more automated "batched" process of case work. Analysts handle about five cases at a time, and are more specialized in their expertise. The traditional method of analysts working cases start to finish is difficult to make efficient when laboratories are faced with large numbers of cases needing analysis. As such, specialization with an assembly-line-like method is more efficient.

Cases take approximately six to eight weeks to complete the DNA analysis of the probative samples, issue a written report, and make an entry into the CODIS database.

Funding is primarily provided by the city budget of \$6.47 million (FY 01-02), though two criminalists are salaried through a "suspect-less" (Cold Hit) grant of \$985,000. As this grant will expire in January of 2005, the department is trying to urge the city to provide funding to make these criminalists permanent employees. The crime lab also receives an LFLIP grant of \$2.985 million (FY 01-02).

**TABLE IV**  
**Comparative Personnel Numbers and Budget in California DNA Laboratories,**  
**Relative to Caseload**

	DNA Case Requests per year <sup>7</sup>	Number of Personnel	FY 01-02 General Budget	FY 01-02 Grant Funding
San Francisco Police Department	735	3 <sup>8</sup>	\$1.8 million	\$1.3 million
Oakland Police Department	416 <sup>9</sup>	3 <sup>10</sup>	\$1.6 million	\$1.8 million
LA Police Department	1949	15 <sup>11</sup>	\$6 million <sup>12</sup>	NA
San Diego Police Department	600	10 <sup>13</sup>	\$6.5 million	\$3.97 million

### CURRENT LAW and/or PRACTICE

#### Convicted Offender Databases

##### *Increasing Importance of DNA*

The use of DNA has become pivotal in the U.S. justice system. It has freed 10 wrongly convicted murderers from death row, exonerated 100 other convicts of lesser crimes and helped prosecutors clear thousands of cases that might have gone unsolved. The FBI computer system that compares DNA from unsolved state and federal crimes with samples drawn from convicts has identified nearly 5,500 matches in the 10 years it has operated, according to the National Institute of Justice.

##### *Solving Crime Through "Cold Hits"*

<sup>7</sup> Case requests per year includes accumulated backlog and cold hit cases; Number of personnel includes professionals working in DNA analysis

<sup>8</sup> Two permanent Criminalists and one temporarily-assigned SFPD Inspector; does not include the four COLD HIT grant-funded positions that expire September 2003

<sup>9</sup> Includes 183 cumulative traditional backlogged cases by end of 2002, 193 cumulative Cold Hit backlogged cases by end of 2002, and 40 completed cases by end of 2002

<sup>10</sup> Does not include Cold Hit funded employees, 1 analyst in training, and 1 vacant (frozen) position

<sup>11</sup> Does not include three grant-funded criminalists; does not include supervising criminalist and four laboratory technicians

<sup>12</sup> Source: estimations from LAPD assistant laboratory director, based on \$12 million budget for two Scientific Investigation divisions

<sup>13</sup> Does not include two grant funded criminalists, nor does it include supervising criminalist



DNA samples are collected and stored in two major catalogues: one of crime-scene evidence, the other of samples from convicted offenders. Crime scene evidence for which there is no suspect can be entered into a database as a "forensic unknown." Advances in DNA typing techniques now offer the possibility of matching these "unknowns" with previously convicted offenders in local, state-wide, and national databases.

### ***CODIS, LDIS, SDIS, and NDIS***

Convicted offender databases were designed to fight crime based on the recidivistic nature of many crimes. Historical evidence repeatedly demonstrates the fact that convicted individuals are likely to have committed similar crimes in the past. The Combined DNA Index System (CODIS) was created to take advantage of this finding, by connecting forensic DNA labs at local, state, and national levels through a computer network with the ability to share data. Databases at the local (Local DNA Index System), state (State DNA Index System), and national (National DNA Index System) levels are collaborating with this method of fighting crime.

### **Post-Conviction DNA Testing**

#### ***California Legislation (as Compared with Other States)***

Based on successes with nationwide Cold Hit programs, many states have enacted legislation to require DNA testing of convicted felons and entry into the CODIS data bank. Currently, 23 states require that *all* convicted felons provide a DNA sample upon conviction. These states, such as Virginia, have much higher "hit rates" (i.e. matches of DNA evidence to profiles of convicted offenders in DNA databases) than those states that require more limited categories of offenders to provide samples, according to the Department of Justice (2003). For example, Virginia has a convicted offender database that now contains over 189,000 DNA profiles, and the state averaged 37 hits per month in 2002. Though California law does *not* require samples for all convicted offenders, many forensic sources predict that the state will move in that direction in the next three years. In 2002, Governor Davis approved additions to the list of offenses for which DNA samples are taken for inclusion in the Department of Justice data bank to include burglary, robbery, arson and carjacking.

Legislators have shown some hesitancy in escalating legislation for minor offenses. However, some states are considering performing DNA testing for arrestees and also for common misdemeanors, such as sex-related crimes (e.g. solicitation of prostitution), violence-related crimes, such as 4<sup>th</sup> degree assault (second lowest level of assault), stalking, harassment, destruction of property.

#### ***Fourth Amendment Issues***

DNA testing of convicted felons and possible other categories of criminals raises concerns in light of the Fourth Amendment, which protects individuals against unreasonable search and seizure. Arguably, required collection and storage of a DNA sample falls under the auspices of Fourth Amendment security. Civil libertarians and other groups are opposed to forced DNA collection for this reason. Legislators and criminologists refer to the proven track record of CODIS with Cold Hits. In addition, criminology sources report that if a suspect is exonerated based on DNA or other evidence, the individual's DNA sample will be removed from the data bank.



## CONCLUSION

The San Francisco Criminalistics Laboratory is nearing the end of its Cold Hit grant agreement with the Governor's Office of Criminal Justice Planning (OCJP). Since October 2000, this grant funded four positions to work exclusively on cases with no suspect. These positions are set to expire on September 30, 2003.

The city trained highly qualified individuals on the temporary grant under the state's budget. Loss of work force at the crime lab would be disastrous, according to San Francisco crime lab director Martha Blake. The Board of Supervisors may want to consider making provisions for six DNA Criminalists, in part by conversion of the four OCJP employees from grant-funded to permanent class 8260 positions. This would give the Lab a total staff of nine criminalists. Please refer to the Appendix for projected budgeting detail (according to Crime Lab sources).

The Legislative Analyst believes that retention of the OCJP-funded DNA Criminalists will produce an immediate increase in solving new and backlogged cases. This capability is critical as DNA typing actually solves cases that are not approachable using traditional investigative measures and also provides post-conviction relief. Thus, improvements in staffing will positively influence resolution of violent crime and will contribute to maintenance of a well-balanced criminal justice system in San Francisco.

An additional consideration would be the reallocation of other SFPD employees to work as Laboratory Technicians in the Forensic Biology unit. Currently, criminalists spend about one quarter of their time performing tasks that could be performed by a "non-technical" person with minimal training. Employing a light-duty or retired officer in this capacity should be considered.

The Legislative Analyst believes that the Board of Supervisors should not consider outsourcing backlogged cases to private labs. While this practice has been useful in Los Angeles for the phase of analysis after samples for suspect-less cases have been discovered and screened, the prospect is not reasonable for the San Francisco Lab, according to Forensic Biology Section Supervisor Cydne Holt. Discovery and screening are the most time-intensive and demanding processes of DNA analysis, and must be performed in-house. Furthermore, each case requiring DNA typing contains an average of 20 samples, and as many as 100 samples for a homicide case. This would create an enormous expense to outsource. The practice of outsourcing samples to private labs exists to serve rural counties that analyze less than 100 samples per year and possess no expertise for DNA analysis. This practice is not designed to serve accredited city and county labs with DNA expertise, such as San Francisco. Private labs would not prioritize San Francisco, and would create a number of redundancies for the San Francisco Lab staff, including the review of data, verification of the use of certain criteria, etc. Private labs charge for travel time, testimony, and consulting fees, incurring greater expense than for performing analysis in-house. According to Assistant District Attorney Elliot Beckelman, private labs incur excessive costs to the city, and do not often perform up to the standard of high quality set by the San Francisco Crime Lab.

The Legislative Analyst further believes that the San Francisco crime lab could benefit from considering practices that have been successful at the San Diego crime lab. Such practices include close communication between the district attorney, SFPD detectives, and the crime lab. San Diego has achieved effective communication through physical proximity of these departments. Further, San Diego has demonstrated success through their "batched" method of assigning, screening and analyzing cases, giving analysts five cases to work on simultaneously. The Legislative Analyst, in agreement with San Diego's crime lab director (who has previously evaluated the SF crime lab), believes that the San Francisco crime lab could achieve this objective after an increase in staff.

Improvements in the laboratory facility such as basic utilities, phone system, internet connectivity, and an installation of a Laboratory Information Management System, would also greatly increase the laboratory's ability to contribute to the successful resolution of investigations, and would also increase the workflow of the laboratory. An upgrade of Internet connectivity, in conjunction with an information management system, would greatly increase the laboratory's ability to communicate with the department on a more efficient basis, and would greatly increase the laboratory's ability to contribute to the successful resolution of investigations. The Board of Supervisors may want to consider upgrading the facilities infrastructure to better accommodate the growing demands for forensic science in San Francisco.

The solution that will expand San Francisco's DNA typing capacity is 1) to retain the highly trained and dedicated DNA Criminalists already in the facility, 2) to hire additional Criminalists, 3) consider adopting some of the best practices exhibited by the San Diego crime lab, and 4) consider facility upgrades.

### OPTIONS

- Hire additional permanent 8260 Criminalists
- Consider infrastructure upgrades to enhance Crime Lab working environment
  - Utilities and communications upgrades (including phone system, currently at maximum usage)
    - Solutions such as emergency generators should be implemented at this facility
  - Network wiring and Internet connectivity (lab is currently dependent on dial-up connectivity)
  - Installation of a Laboratory Information Management System (LIMS) (in conjunction with adequate Internet connectivity) would provide several benefits:
    - Up-to-the-minute status reports for SFPD
    - Increased efficiency in evidence logging, tracking, and disposition
    - Increased workflow
    - Decreased report time
    - Increased workload
- Consider creating personnel support positions (i.e. Quality Assurance Manager, Network Administrator)

### RECOMMENDATIONS

- Make provisions to convert the four OCJP employees from grant-funded to permanent positions
  - This will allow skilled professionals who have been trained in the Forensic Biology Section under the state budget to work on active SFPD cases as well as cold cases
- Consider reallocation of SFPD human resources from other units to Forensic Biology unit for tasks such as data entry
- Consider physical space upgrade, better utilization of "dead space"
  - If additional office space is acquired (possibly by using vacant offices on the upstairs floor of building 606), valuable laboratory space will become available for examinations

**APPENDIX****TABLE V. San Francisco Police Department Crime Lab Budget for FY 2001-2002<sup>14</sup>****PERSONNEL:** (approximate amounts; assumes full staffing levels)

1 Crime Lab Manager	\$ 95,000
3 Senior Criminalists	\$ 270,000
8 Criminalists	\$ 600,000
1 Forensic Document Examiner	\$ 76,000
1 Senior Clerk Typist	\$ 40,000
4 Q2 light Duty Officers	<u>\$ 230,000</u>
<b>TOTAL</b>	<b>\$1,311,000</b>

**LABORATORY SUPPLIES:**

General Laboratory supplies	\$ 145,000
Ordinance Supplies (Firearms/NIBIN)	\$ 5,000
DNA Supplies	<u>\$ 89,400</u>
<b>TOTAL</b>	<b>\$ 239,400</b>

**MAINTENANCE BUDGET:**

Service contracts, cleaning and servicing all equipment (electronic balances, DNA equipment, GC/MS, UV, FTIR, SEM/EDX, microscopes, etc.)	<b>\$ 174,000</b>
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**CONTRACTUAL:** **\$ 53,000**

(Hazardous waste disposal, narcotics destruction,  
Gunshot residue testing, DNA testing, labcoats, etc.)

**PROFESSIONAL DEVELOPMENT:**

Subscriptions (journals)	\$ 1,500
Professional Memberships	\$ 2,000
Training (from Academy Budget)	<u>\$ 20,000</u>

**\$ 23,500****Sub-Total: General Fund** **\$1,800,900****GRANTS:**

Local Forensic Laboratory Improvement Program	\$893,307
Cold Hit State Grant	<u>\$455,655</u>

**Sub-Total: Grants** **\$1,348,962****TOTAL BUDGET FY01/02** **\$3,149,862**<sup>14</sup> Martha Blake, Crime Lab Manager; Cydne Holt, Forensic Biology Section Supervisor

TABLE VI<sup>15</sup>. Annual Funds Required for Six 8260 Criminalist Positions.

	Salary (Budgeted at top-step, 2003)	Benefits (19%)	Annual Compensation
<b>Criminalist (8260)</b>	\$85,317	\$16,210	\$101,527
<b>Nine (9) Criminalists</b>	\$767,853	\$145,892	\$913,745

<sup>15</sup> Source: Martha Blake, Crime Lab Manager; Cydne Holt, Forensic Biology Section Supervisor; Table details the budget for Department's three permanent DNA criminalists, plus the addition of six new criminalsits, four of which can be converted from the OCJP Cold Hit grant.





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**LEGISLATIVE ANALYST REPORT**

To: Members of the Board of Supervisors  
From: Willow Schragar, Melissa Sills, and Greg Wagner with Adam Van de Water,  
Office of the Legislative Analyst  
Date: June 11, 2003

DOCUMENTS DEPT.

RE: San Francisco Housing Development

JUN 12 2003

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**SUMMARY AND SCOPE OF WORK**

Supervisor McGoldrick requested that the Office of the Legislative Analyst (OLA), working with graduate students at UC Berkeley's Goldman School of Public Policy, research barriers to residential housing development in San Francisco and provide possible courses of action the Board of Supervisors could take to overcome them. As part of this analysis, the OLA is requested to compare San Francisco to other comparable cities and to consult with appropriate stakeholders in the development of any recommendations or conclusions.

**EXECUTIVE SUMMARY**

San Francisco consistently falls short of its housing production goals. Over the past decade, housing production has not kept pace with employment and population growth. As a result, housing has become unaffordable for many of the city's residents, commuting to jobs in the city has increased, and many of the city's households are becoming overcrowded. These trends threaten the health of the City's economy, citizens, and natural environment. If the City does not take new steps to stimulate housing production, these trends are expected to continue.

There are several strategies the City can pursue to meet housing production goals. These strategies involve reducing the direct costs of construction and the uncertainty costs of the development process. By reducing these costs, the City can encourage housing production and create more competition in the development market. This report details the following strategies for stimulating housing production:

- Rezone land use;
- Relax floor-to-area restrictions for housing development downtown;
- Increase height and density allowances along major transit corridors;
- Provide direct subsidies to affordable housing developers;
- Alter parking requirements;
- Maintain consistency of development fees;
- Pursue program environmental impact reports;



- Revise conditional use requirements; and
- Minimize time delays associated with discretionary review.

Many of these policy changes will create significant cost savings to housing developers. The City benefits from these costs savings because more profitable development opportunities draw new developers into the market and increase the overall housing supply. The City can also benefit by making regulatory changes designed to increase affordable housing production or increases in developer fees that can be used to fund City services.

Many of these strategies can be packaged to create comprehensive approaches to neighborhood development. Comprehensive approaches involve one community-wide planning process that allows for substantial community input and requires significant upfront investments from the planning department. Developers are willing to fund such programs, however, in exchange for the cost-savings they create in the long-run. The City also benefits in the long-run from increased housing development, well-planned communities, and happy residents.

## INTRODUCTION

San Francisco's Plan for Housing Development identifies matching housing growth to job growth as the primary housing goal for the city. Over the past decade, however, employment has increased by 9 percent in San Francisco, while the housing stock has increased by only 5.5 percent.<sup>1</sup> Between 1990 and 2000, the population growth of San Francisco also outpaced housing growth. As a result of this increase in the need for housing, a shrinking proportion of San Francisco's workers are able to live within the city and growing proportions are commuting from surrounding areas. The remaining San Francisco residents have faced dramatic increases in housing costs, leaving many without affordable housing options.

### **San Francisco's Housing Crisis**

The supply of housing in San Francisco increases by about 1,200 units annually, while the need for housing is projected at about 2,700 units annually through 2006. This disparity leads to increased commuting, over-crowding, low vacancy rates, and escalating housing prices. Over the past decade, 60 percent of new jobs in San Francisco were filled by commuters rather than residents, and this trend is projected to continue through 2010.<sup>2</sup> Census data show that 30 percent of rental and 11 percent of owned housing is overcrowded in San Francisco. In addition, vacancy rates reach as low as about 2.5 percent during the economic boom of the late 1990s and early 2000s, which is about one-half the national average.<sup>3</sup> These low vacancy rates are associated with escalating housing prices, as would-be residents compete for the relatively few available units and consequently bid up the price of housing.

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<sup>1</sup> Grubb, Joe. 2002. *San Francisco Housing Databook*. San Francisco, CA: Bay Area Economics.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

San Francisco's housing prices are also among the highest in the nation. In 2000, the National Association of Home Builders estimated that 60 percent of all homes sold nationwide were affordable to a family earning the national average household income. In contrast, only 6 percent of home sales in San Francisco were affordable to households earning the area median income. As job growth outpaced housing development in San Francisco, sale prices for the average single-family home increased by 86 percent and rental prices increased by 175 percent over the past decade. Even in less expensive areas, rent for the average household size does not fall below \$2,105, which is over 150 percent of what low-income households can afford.<sup>4</sup>

These dramatic increases in the price of housing create pressure on employers to compensate their workers for high housing costs and lengthy commute times with higher wages. San Francisco employers already pay higher wages than other U.S. cities, as Table 1 indicates:

**Table 1. Annual Median Base Salaries by U.S. City**

	Atlanta	Boston	Chicago	Los Angeles	New York	San Francisco
<b>Administrative Assistant</b>	\$27,721	\$31,441	\$31,460	\$32,994	\$34,223	\$35,293
<b>Computer Programmer</b>	\$34,648	\$38,791	\$38,666	\$40,442	\$41,518	\$42,865
<b>Data Entry Operator</b>	\$16,920	\$19,062	\$18,839	\$20,549	\$20,975	\$22,001
<b>Engineering Technician</b>	\$33,085	\$35,830	\$36,235	\$38,160	\$38,982	\$40,143
<b>Machinist</b>	\$32,233	\$35,998	\$36,235	\$38,247	\$39,129	\$40,616
<b>Office Manager</b>	\$33,267	\$36,923	\$37,135	\$38,793	\$39,913	\$40,868
<b>Systems Analyst</b>	\$46,089	\$50,524	\$50,327	\$52,063	\$53,571	\$55,106

*Source: The San Francisco Partnership, San Francisco's Business Climate: Quick Facts.*

To the extent that the housing needs of San Francisco's workforce continue to go unmet, employers will experience increased pressure to pay higher wages and will no longer remain competitive with businesses located in other U.S. cities. Meeting the City's housing goals is, therefore, directly linked to maintaining the health of the San Francisco economy. Although San Francisco employers pay higher wages than other cities, on average, incomes in San Francisco have not increased enough to match increasing housing prices. The Association of Bay Area Governments (ABAG) has created housing targets for the city's workforce. The following table shows the ABAG targets for the past decade and the failure of new housing construction to match the projected need for households at different income levels.

<sup>4</sup> SF Planning Department, *Housing Element: Final Draft for Public Review*, February, 2003.

**Table 2. San Francisco Housing Targets and Total Production (1989-1998)**

Income Category (as a percent of Area Median Income)	Annual Housing Goals	Annual Housing Production	Percent of Target Achieved
Very Low (below 50% AMI)	830	220	26.5%
Low (50% - 79% AMI)	553	152	27.4%
Moderate (80% - 120% AMI)	691	56	8.1%
Above Moderate (above 120% AMI)	1383	989	71.6%

*\*Source: SF Planning Department, Housing Element: Final Draft for Public Review, February, 2003.*

As shown in Table 2, San Francisco has fallen short of housing production goals at all income levels. Market rate housing has been produced at a higher rate than housing for households at lower income levels, but still falls short of its goal by roughly 400 units per year. The development of housing for low- and moderate-income residents has fallen far short of targets for the past decade. Employment projections indicate that job creation at low and moderate income levels will continue to outpace additional housing development that is affordable at these levels.

**Table 3. Projected Occupational Growth by Income Category**

Income Category	Job Growth	Percent New Jobs
Very Low	11,770	48%
Low	2,070	9%
Moderate	7,120	29%
Above Moderate	3,310	14%
TOTAL	24,270	100%

*\*Source: California Employment Development Department. Available: <http://www.calmis.cahwnet.gov>*

As shown in Table 3, San Francisco's workforce will continue to need housing growth at all income levels and especially for very low income workers. City efforts to increase housing affordability and growth should begin with an understanding of how City regulations impact housing prices and supply.

### **Effects of Regulation on Housing Prices and Supply**

Growth controls and regulations drive up the price of housing. Because regulations can reduce the ability of housing suppliers to respond to the demand for housing, vacancy rates decline as demanders compete for existing units, and housing prices rise accordingly. There is a substantial body of economic research showing that, when controlling for other factors, higher levels of regulation prevent housing construction from responding to increases in demand, and consequently drive up housing prices. In the late 1980's Lawrence Katz and Kenneth Rosen

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found that the presence of strong growth controls increased housing prices between 17 percent and 38 percent. In a more recent analysis of 56 U.S. cities, Stephen Malpezzi found San Francisco to have the highest level of housing regulations of any city and, consequently, the highest rent and purchase prices for housing. Based on this study, Malpezzi concluded that a high-regulation city would have rent prices 17 percent higher and purchase prices 51 percent higher than a city with low levels of regulation.

In addition to housing prices, high levels of regulation also affect the quantity of housing supplied. In the same study discussed above, Malpezzi estimates that high-regulation environments reduce development permits by 42 percent relative to low-regulation environments. Thus, fewer projects will go forward into development where regulation is high and housing supply will be restricted. The Malpezzi study also showed that high regulation levels have the indirect effect of reducing home ownership rates by about 10 percentage points.<sup>5</sup>

Although regulation has been shown to increase housing prices and reduce housing supply, regulation may also create substantial benefits for the City. Housing development regulation allows the City to control traffic and congestion and protect the environment. Regulation also allows the City to pace and prepare for the new infrastructure and public services costs associated with new residential development. If the City cannot provide the infrastructure and services new residents will need, for example, it may be beneficial to slow growth through regulation. Finally, many of San Francisco's regulations on housing development benefit current residents by granting them the power to maintain their neighborhood character through development reviews.

Restricting housing growth, however, can also impose a number of costs on the City. The current disparity between housing supply and need threatens to weaken the economy by giving other cities a comparative advantage in the labor market. High housing prices lead to commuting and overcrowding, which reduce the productivity and health of employees and citizens. In addition, the transportation system and natural environment of the Bay Area continues to be heavily burdened by high levels of commuting. The diversity of the City is also threatened as housing prices escalate and economically less-advantaged groups are pushed out of the San Francisco housing market. These groups may include low-income workers, racial and ethnic minorities, large families, seniors, and young adults. Lastly, homeownership, which may create numerous social benefits including improved maintenance of the housing stock, greater political stability, and less gentrification, is very low in San Francisco.

When the City chooses to create or maintain regulations on the housing market, it should do so because the benefits of these regulations outweigh the costs. Successful regulation, however, requires government to have extensive information about markets, costs, and benefits. This report provides information about the costs and benefits of the current regulatory environment in San Francisco. Ultimately, the recommended strategies are those that will reduce costs while maintaining or increasing benefits to the City.

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<sup>5</sup> Stephan Malpezzi, "Housing Prices, Externalities, and Regulation in U.S. Metropolitan Areas," *Journal of Housing Research* 7(2) (1996): 209-241.

## Direct and Uncertainty Costs of Housing Development

Housing supply will increase in San Francisco as barriers to development are lifted or altered. Barriers to development include high direct costs of construction and high uncertainty costs associated with the development process. Direct costs are the explicit financial costs of creating housing, and include things such as land, labor, construction materials and fees. In San Francisco, the direct costs to housing development are among the highest in the nation. San Francisco is a mature city and much of the land available for residential development has been built out. In addition, the city is surrounded on three sides by water, which limits expansion. Construction costs are also relatively expensive due to higher labor wages and low-density construction. These factors drive up the price of development and, as a result, reduce the supply of housing overall because fewer projects are profitable. Many of these direct costs cannot feasibly be reduced through local policy, at least in the short term. For example, the costs of construction materials are determined in the national market, and labor costs are determined through negotiations largely outside of the City's control. Land costs are one of the few direct costs that can vary substantially over time. Unlike construction costs, which are relatively fixed over time, the cost of acquiring a given piece of land is determined by the value of the housing that can be built on it, making land much more expensive in a city like San Francisco where housing prices are high. To the extent that new housing supply can lower housing prices, land values will decline over time, further lowering costs and allowing even more new housing to be built.

High direct costs dramatically reduce the supply of low- and moderate-income housing because developers are least able to recoup these costs with sales or rentals to low- and moderate-income residents. Thus, for-profit developers rarely take on projects benefiting low- and moderate income residents because these projects result the lowest rate of return.

Uncertainty costs include the level of risk developers take on when they choose to build. All developers experience uncertainty in the building process because real estate markets can change in short periods of time and, therefore, developers build margins into their profit estimates to protect against these fluctuations. The development process in San Francisco, however, introduces added risk surrounding the permit and approval process. When the development process is highly uncertain, developers will build high margins (20 percent or more) into their estimates to protect against possible losses and only take on projects that allow them margins at this level. Reducing the uncertainty in the process will allow developers to reduce their margins and take on more projects, including projects that include more affordable units.

Taken together, high direct and uncertainty costs reduce competition in San Francisco's housing market. Competition is reduced by high direct costs because new developers have greater difficulty gaining financial backing even for small (but costly) start-up developments. The inaccessibility of funds represents a high fixed cost to entering the market. Competition is also reduced by high uncertainty costs because new developers face the costs of acquiring political capital necessary to increase certainty surrounding the development process. New developers must also acquire information about a complicated set of regulations in San Francisco. These



investments in political capital and information also represent fixed costs of entering the market and, therefore, act as barriers. Strategically reducing barriers to development and increasing competition will improve the long-term health of the local housing market.

### STRATEGIES TO REDUCE THE DIRECT COSTS OF DEVELOPMENT

San Francisco can pursue a number of strategies to reduce the direct costs of development, including:

- (1) Rezoning land use to increase the supply of land available for housing development;
- (2) Relaxing Floor-to-Area restrictions for housing development downtown;
- (3) Increasing height and density allowances along major transit corridors;
- (4) Providing direct subsidies to affordable housing developers;
- (5) Altering parking requirements; and
- (6) Maintaining consistency of development fees.

The current development conditions often create a lose-lose scenario for both developers and the City. Reducing the direct costs will result in an overall gain which can be shared. Gains to developers will lead to increases in housing supply and more competition in the market. In some cases, if direct costs are reduced for developers, the City will benefit from these gains through higher fees, and the increased provision of affordable and reasonably priced units associated with a healthier housing market. The City will also benefit because lower direct costs mean that a greater number of affordable housing units can be built with current subsidy levels.

#### **1. Rezone land use**

Land use regulations designate land that can be used for commercial, industrial, or residential purposes. Although zoning can benefit the City, economic analyses have revealed that land use regulations also drive up the price of land. In the early 1990's, Krisandra Guidry, James Shilling, and C.F. Sirmans showed that the average lot price in unrestrictive cities was \$23,842, compared to \$50,659 in restrictive cities.<sup>6</sup> While land use regulations have a direct effect on land prices, they also have an indirect effect on housing prices because they increase the direct costs of building housing. Along with Philip Srinivasan, Shilling also found that cities with land use regulations have housing prices 3 percent higher than cities without these regulations.<sup>7</sup>

In San Francisco, about 65 percent of land available for development is zoned for commercial/industrial uses, and less than 3 percent of the City's land is currently undeveloped and available for residential development.<sup>8</sup> One way to address the direct costs of land in San Francisco is to rezone some land for residential purposes. Much of the land in the Eastern areas

<sup>6</sup> Krisandra Guidry, James Shilling, and C.F. Sirmans, *An Econometric Analysis of Variation in Urban Residential Land Prices and the Adoption of Land-Use Controls*. Working paper. University of Wisconsin, Center for Urban Land Economics Research, 1991.

<sup>7</sup> David Segal and Philip Srinivasan, "The Impact of Suburban Growth Restrictions on U.S. Housing Price Inflation, 1975-78," *Urban Geography* 6(1) (1985): 14-26.

<sup>8</sup> Association of Bay Area Governments, *Projections 98*, December 1997.



of San Francisco is currently zoned only for industrial or commercial purposes. These land use regulations were created decades ago to protect industrial space in the city. However, the manufacturing industry has declined over time and adjustments could be made to ensure the best use of available land.

The Planning Department's City-Wide Action Plan includes numerous options to rezone some of the Eastern areas of the city to accommodate residential housing and mixed use buildings. This study outlines three options for rezoning the Eastern neighborhoods to provide more land for residential purposes. All of the options maintain industrial spaces, but some offer more housing than others. The plans under consideration show that rezoning in these areas could have a large effect on potential housing construction. For example, if the City pursued a moderate option (Option B, see Figure 1), the housing capacity of the city would increase by about 22,600 units. Moderate land use rezoning of Eastern neighborhoods could result in 8,000 new units produced over the next two decades, which would make up almost 25 percent of the annual shortfall in new housing production.<sup>9</sup> Other options under consideration would allow even higher amounts of new construction.

Benefits to the City will be maximized if efforts to change land use target areas that have sufficient infrastructure to accommodate residents without tremendous public costs and/or allow for appropriate time horizons to create the necessary infrastructure. Also, changes in land use should focus on land that is underutilized for industrial purposes so that displacement of current land users is minimized. These rezoning efforts will be most effective if they take a neighborhood approach that focuses on producing jobs and commercial centers in addition to residential space. Although the planning of these areas would be costly for the City, the new neighborhoods could generate significant revenue for the City in the long-run.

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<sup>9</sup> San Francisco Planning Department, *2002 City-Wide Action Plan*, 2002.

**Figure 1. Moderate Rezoning of the Eastern Neighborhoods**

Eastern Neighborhoods Zoning: Option B



## 2. Relax the Floor-to-Area Restrictions

Floor-to-area restrictions (FAR), designed to protect airspace and limit office development downtown, could be relaxed for housing development. Currently, the City places limits on the total amount of square footage of building space that can be built on a given block. In some cases developers can exceed this limit, but they must purchase the air space from historical buildings in the area. Because office space is more profitable than housing, it is often not profitable to acquire land and airspace for housing downtown. Relaxing the FAR for housing, but not for commercial space, would give housing a comparative advantage. This area of the city is a desirable location for new housing because it is a transit-intensive and an employment center. The downtown area is also one of the few locations in the city that could accommodate very high-density projects in close proximity to transit without altering the character of the neighborhood.

Housing developers assert that lifting the FAR for housing would have a significant impact on housing development. When interviewed, developers estimated that new housing production could be as high as 10,000 and 25,000 units over time.<sup>10</sup> These are only estimates, and the true increase in housing production that would result from a change in the FAR would depend on several economic factors including how the demand for residential uses of land in downtown would change relative to commercial uses and what additional requirements the City would place on developers. At a minimum, we can conclude that if the lifting of FAR leads to an annual increase of even one high-density development, then this policy change would substantially increase housing production for the City. For example, one new very large development in downtown could produce three hundred or more additional housing units, which represents about 20 percent of the City's annual housing shortfall.

Relaxing the FAR would make housing development more profitable downtown and allow developers to reap substantial gains. The City can share these gains with developers by requiring more affordable housing units or increasing fees that could be targeted toward affordable housing development in exchange for relaxing the FAR. If the City does not place such requirements on developers, some of the gains will accrue to landowners in downtown because they may now be able to charge higher prices for their land. Any additional requirements on developers in downtown, however, would require an economic study to ensure the new burdens will not be set at a level so high as to outweigh the benefits of the change, making development unfeasible. Alternatively, the City could start by asking developers to include more affordable units in exchange for relaxing of FAR and observe the response of developers. Based on this response, the City could alter the original request.

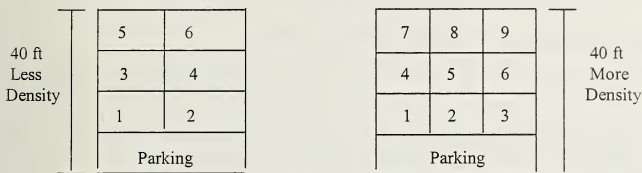
## 3. Increase Height and Density Allowances

Many San Francisco neighborhoods have strong restrictions on the density of new housing developments. These restrictions are often designed to maintain the character of the neighborhoods and reasonable levels of congestion and traffic. Along high-transit corridors, however, the city is better able to accommodate more residents and higher-density housing. Higher density housing should be also be targeted at high-transit neighborhoods and areas where

<sup>10</sup> Author interviews with Oz Erickson, Steve Vettel, Steve Kuklin, Jim Chappell.

substantial public services are already in place to sustain new residents. If implemented well, altering density allowances for some areas of the city would reduce the direct costs associated with development and, therefore, lead to more housing production. Figure 2 shows how increasing density allowances could increase housing production:

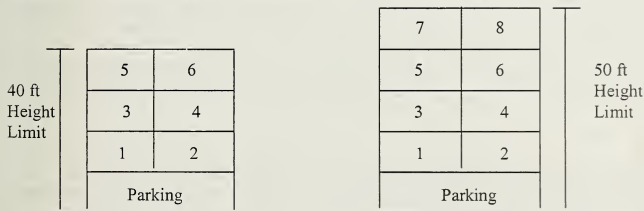
**Figure 2. Increased Density Allowances Produce More Housing at Lower Costs**



Increased density allowances allow for more units to be built and make more projects profitable by spreading some of the costs across more units. The City could link these increased density allowances with higher levels of affordable housing. Furthermore, lower costs per unit mean that developers will not have to compensate as much for the production of an affordable unit as the value of the unit will be closer to the cost of producing that unit.

Raising the current height limitations along transit corridors and in residential-commercial neighborhoods would also encourage increases in housing production generally and could allow for the construction of more affordable units. As Figure 3 shows, the City could raise height limitation from 40 feet to 50 feet, which would allow developers to build an extra floor of housing.

**Figure 3. Increased Height Allowances Produce More Housing at Lower Costs**



Changes to current height restrictions would allow developers to take on some projects that are not currently profitable. For many developments, the cost of adding an additional story or a small number of additional units is small in proportion to the cost of the development as a whole. Because additional units are built at lower cost, the average cost per unit in the development is

usually lowered as developers are able to build upward.<sup>11</sup> In exchange for the additional profits higher height limits may bring, developers could be required to provide more affordable housing units or increased fees to fund affordable housing. For example, a developer could be allowed to build an extra story, provided that some of the units on that additional story are designated as affordable.<sup>12</sup> Density and height changes along transit corridors will have positive impacts on general and affordable housing production and allow for the introduction of new housing units where infrastructure and services are already in place to serve new residents.

#### 4. Provide Direct Subsidies to Affordable Housing Developers

Construction of affordable housing is often directly subsidized by government. High land and construction costs in San Francisco make direct subsidies particularly important to housing production for low income residents. Although other policy changes could stimulate both affordable and market rate housing development, one of the primary barriers to affordable housing construction is the limited pool of money available for direct subsidies.

Affordable housing developers in San Francisco face many of the same barriers as developers of market rate housing. They may encounter high competition for available land, uncertainty in the approval process, and opposition from nearby residents. But affordable housing developers are constrained even further by the fact that they cannot recover high development costs through charging higher sale prices or rents.

New affordable housing, particularly housing reserved for residents at very low income levels, will not be provided by the market without significant public intervention. It can cost well over \$200,000 per unit to develop affordable housing. However, housing that serves a family making 25 percent of the Area Median Income (AMI) (or \$19,375 for a family of three) can be rented for only \$533 per month, which amounts to only \$6,396 per year. Given this wide disparity between development costs and the amount of money that can be recovered through the rental price of these units, it is impossible for developers to provide them at a profit. In fact, a subsidy of well over \$100,000 per unit would be required to make such a development feasible. A development with housing units priced for income levels somewhere near 70 percent of AMI would be required for a developer to break even and recover basic development costs.<sup>13</sup> Even at that income level, it would be impossible to obtain financing on the market for such a development, since financiers will not make loans for developments without a substantial projected profit margin.

Some affordable housing production has been achieved through inclusionary housing policies, which require developers to provide a certain percentage of affordable units in market rate housing developments. However, only about 5 percent of affordable housing has been produced through inclusionary requirements in the last few years, and although the new inclusionary

<sup>11</sup> There are some cases in which adding an additional floor would require developers to use more expensive construction methods and, thus, increase the average cost per unit.

<sup>12</sup> Oz Erikson, *Our Housing Crisis: The Developer's Perspective*, San Francisco, CA: SPUR, 2002.

<sup>13</sup> SF Planning Department, *Housing Element: Final Draft for Public Review*, February, 2003.

housing policy adopted in 2002 is expected to increase that amount, it will not be enough to meet the city's large affordable housing deficit.<sup>14</sup>

Historically, the federal government has provided significant funding for affordable housing construction. Over the last few decades, however, annual federal funding for housing construction has declined by nearly \$15 billion, leaving local governments responsible for a significant amount of new construction.<sup>15</sup> In 2000-2001, local funding sources were responsible for 86 percent of publicly subsidized affordable housing construction. In recent years San Francisco has provided funding for affordable housing construction primarily through tax-increment financing from Redevelopment Areas and the 1996 Proposition A affordable housing bond, with additional support from other sources such as the hotel tax and job-housing linkage program.<sup>16</sup>

The number of units produced using local funding sources depends on a number of factors. One such factor is the income level that the new housing serves. Housing for very low income residents (below 50 percent of AMI) requires larger subsidies per unit than housing for higher income categories. Thus the City can choose to provide deeper subsidies, which will produce fewer units but serve the neediest people, or more modest subsidies, which will produce more total housing units serving low to moderate income groups. The question of whether to produce fewer highly subsidized units for the lowest income categories or a larger number of units for slightly higher income categories is a policy decision that must be made by City leaders.

So-called "demand-side" strategies, which aim to make housing affordable by increasing the purchasing power of lower-income individuals, have been studied in great detail. For example, subsidies could be used to help moderate income individuals purchase new homes. While such approaches do not directly increase housing production, they can have an impact on the share of new units that are consumed by low- and moderate income individuals. Although such programs are outside the scope of this paper, there is a large body of literature on their effectiveness, and the City may wish to consider them as a compliment to policies emphasizing housing production. It should be noted, however, that using subsidies to ensure permanent affordability of rental units can in many cases distribute the benefits of the subsidies over a larger number of individuals and over a greater length of time. For example, depending on how they are structured, down-payment assistance programs may help an individual to purchase a home at an affordable price, but then allow that individual to later sell the housing unit at market rate. While such programs help to build wealth among lower-income residents, they confer the benefits of the subsidy to one person at one time, without maintaining the affordability of the housing unit over the long-term.

The Proposition A housing has been a primary source of affordable housing subsidies since the first bonds were issued in 1998, and will continue to be until the remaining funds are expended over the next few years. That bond was used to subsidize construction of over 1,300 units of

<sup>14</sup> San Francisco Planning Department, *Housing Element: Final Draft for Public Review*, February 2003, p. 100.

<sup>15</sup> National Low Income Housing Coalition, *The Federal Budget and Housing Assistance, 1976-2006*, May 2001.

<sup>16</sup> San Francisco Planning and Urban Research Association (SPUR), *Analysis of the San Francisco Affordable Housing and Home Ownership Opportunity Bond Program*, 2002; SF Planning Department, *Housing Element* (on averages).



affordable housing, or roughly four full years worth of affordable housing production at the city's average rate of 320 units per year over the last 10 years. A large portion of the units funded by Proposition A have been dedicated to very low income levels. Bond funds can also be an effective means of investing in housing production because they can be used to leverage other funding sources. This is particularly true in light of State-imposed restrictions on the ability of local governments to access other funding sources.

All of the funds from the Proposition A bond are now either spent or committed. As a result, the City will face a dramatic reduction in the pool of subsidies available for affordable housing construction in the coming years. Proposition B, which would have authorized a second affordable housing general obligation bond issue in 2002, did not receive the two-thirds of votes required for approval under State law. However, some State legislators are currently considering a proposal that would allow local governments to determine for themselves the threshold for voter approval of new expenditures. If such a proposal were adopted, San Francisco could potentially lower the threshold for voter approval of housing investment funds from the current 67 percent level, increasing the likelihood that new funding sources will be approved.

In any case, San Francisco will face extraordinary barriers to meeting the projected need for affordable housing without identifying significant new funding sources in the near future, even if other regulatory changes are made to stimulate affordable housing production.

## **5. Alter Parking Requirements**

Current parking requirement regulations are a major barrier to new housing development in San Francisco because they increase direct costs to developers and reduce flexibility to maximize housing production on a given piece of land.

Currently, the City requires one parking space for every new housing unit in many zoning classifications (this requirement is also known as the one-to-one parking ratio). This requirement is much higher than in many dense urban areas. In general terms, strict parking requirements reduce a developer's ability to adapt physical design of a new building (and thus the financial viability of a new development) to match the particular characteristics of a given parcel of land. There are two ways that parking requirements can inhibit developers from maximizing the housing potential of a given site. First, parking spaces are relatively costly to construct, especially in a dense urban area such as San Francisco, where a parking lot cannot be easily constructed on an adjacent piece of land. Estimates of the cost of constructing parking range from \$17,000 to \$50,000 per space. This expense adds to the average development cost per unit, and therefore increases the amount of money that must be recovered in sale prices or rental rates. For affordable units, the increased costs mean greater subsidies must be provided to make development financially viable. Second, parking occupies physical space that could otherwise be used for additional housing units. In addition, the requirements can reduce the height or density of developments because only a limited number of parking spaces can be economically constructed given the geometry of the land parcel, thus limiting the units accompanying them.

### *The Cost of Providing Parking*

At a cost of \$17,000 to \$50,000 per space, parking construction can be a significant component of development costs. These costs must be recovered by developers either through increased sale value of the new housing, or through increased development subsidies in the case of affordable or rent-restricted units.

In market rate developments, especially those serving higher income levels, a parking space often adds substantial value to the sale price per housing unit. A 1996 statistical analysis of home sale prices estimates that a parking space can increase the sale value per unit by \$38,000 to \$46,000, although some developers anecdotally estimate this figure at a higher amount.<sup>17</sup> Thus, in some cases, parking costs can be recovered through higher sale value, and may even be desirable to developers when they can be sold at a profit. However, in some market rate projects, developers would be able to increase profits by reducing parking and adding additional housing units. The extent to which this will occur will depend on the specific characteristics of sites and developments, and is very difficult to estimate. However, some portion of market rate developments would surely take advantage of increased flexibility in parking requirements.

In more modestly priced developments the cost of parking provision can be a liability to developers. This is especially true in developments serving lower-income groups. In such developments, the cost of parking provision is difficult to recover through higher sale prices, and therefore higher subsidies or lower levels of affordability are required to offset the costs of construction. For example, an affordable housing developer who would otherwise have constructed units to serve very low-income groups (less than 50 percent of AMI) may be forced to make a higher portion of units in a development serve moderate income groups (80 percent of AMI) in order to recover the higher construction costs associated with parking through higher rents. The Planning Department estimates that a \$52,200 capital subsidy is required for development of a low income housing unit (50 percent to 79 percent of AMI).<sup>18</sup> If parking is not provided for such a unit, the cost savings could eliminate the need for *half* of the subsidy required for development.

Table 4 below calculates the cost savings for reduced parking under three scenarios, and compares those savings to the estimated amount of subsidies needed to produce the units. While imperfect, this comparison gives a rough estimate of the possible reduction in affordable housing costs that could result from lowering parking requirements. Lower subsidies could save local government money, or the savings could be used to fund additional affordable housing projects. The three scenarios assume reductions of 25 percent, 50 percent and 75 percent in the amount of parking spaces constructed for affordable housing units after eliminating the one-to-one parking requirement.

**Table 4. Cost Savings from Parking Reductions in Affordable Housing Developments as a Percentage of Annual Subsidies**

<sup>17</sup> Non-Profit Housing Association of Northern California, *Rethinking Residential Parking*, April 2001 (Original citation from *Access*, Volume 13, 1997) and personal interviews with Steve Vettel.

<sup>18</sup> San Francisco Planning Department, *Housing Element: Final Draft for Public Review*, February, 2003.

	Annual Average Production, 1989-1998		Total Capital Subsidies per Year (Millions of \$)		Cost Savings of Parking Reduction (Millions of \$)		Cost Savings as a Percent of Annual Subsidies	
	Very Low Income	Low Income	Very Low Income	Low Income	Very Low Income	Low Income	Very Low Income	Low Income
Scenario 1: 25% reduction in parking spaces	220	152	37.29	7.9	1.375	.950	3.7%	12%
Scenario 2: 50% reduction	220	152	37.29	7.9	2.75	1.9	7.4%	24.1%
Scenario 1: 75% reduction	220	152	37.29	7.9	4.125	2.85	11.1%	36.1%

*Source: Annual average production and capital subsidy needs estimates are from SF Planning Department Housing Element Draft for Public Review, 2001, p. 100 and 101, respectively. These figures assume a \$25,000 cost per parking spaces, which is based on estimates from several sources including the Housing Element, SPUR, Reducing Housing Costs by Rethinking Parking Requirements and Nonprofit Housing Association of Northern California, Rethinking Residential Parking.*

Table 4 shows that direct cost savings to affordable housing developers resulting from increased flexibility in parking requirements could have a major effect in offsetting the need for capital subsidies from the public sector. With materials, construction and land costs somewhat fixed over the medium term, parking is one of the few direct costs to developers that could be reduced by a relatively costless policy change.

Furthermore, the lower cost associated with parking ratio reductions can reduce the price of housing, making it more accessible to people with lower incomes. For example, one economic study found that 20 percent more San Franciscan households would qualify for mortgages for units without parking than for units with parking.<sup>19</sup>

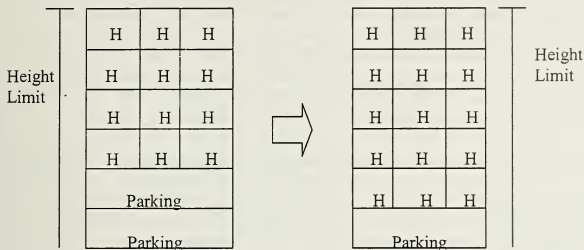
#### *Use of Floor Area for Parking*

A parking space can occupy 400 square feet of floor space or more, including circulation space and the area used for ramps and driveways in parking structures.<sup>20</sup> Given housing units of 800 square feet or less, these parking spots can take up a large proportion of space that could be dedicated to housing. Figure 4 shows how reduced parking requirements can be used to allow for a greater number of housing units in a development on a given land parcel with a set height limit:

<sup>19</sup> San Francisco Planning and Urban Research Association, *Reducing Housing Costs by Rethinking Parking Requirements*, Report 369, November/December 1998.

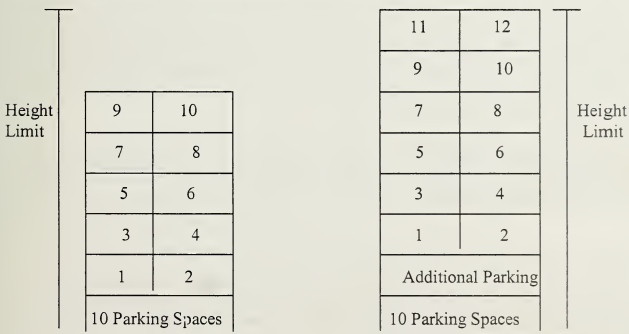
<sup>20</sup> Personal interviews with Doug Shoemaker and Steve Kuklin.

**Figure 4. Reduced Parking Requirements Can Allow for More Housing**



In some developments, parking requirements may also restrict housing by impeding a developer's ability to build up to the height limit on a given land parcel. It can be very expensive to build multi-level parking facilities, and even more expensive to build parking underground. As a result, the total number of housing units can be limited by the number of parking spaces that fit on the first level. For example, Figure 5 models a development on a piece of land that is large enough to accommodate 10 parking spaces on the first level, but with a height limit that would allow more than 10 units of housing. In this case, the developer will have to determine whether it is economical to build additional parking facilities that will allow construction of additional units. For the additional units to be built, the revenue they create would have to outweigh the costs of constructing additional parking.

**Figure 5. Parking Requirements Can Reduce the Number of Units Built**



### *Costs and Benefits of Altering Parking Requirements*

It is extremely difficult to predict the citywide impact of altering parking requirements, but doing so would allow developers greater flexibility to respond to the particular physical and economic circumstances of their projects. High parking requirements such as those currently in place in San Francisco restrict the ability of the market to maximize housing production. If minimum parking requirements were lowered, some developers would continue to build large amounts of parking because it would make sense economically. Others, however, would take advantage of increased flexibility and reduce parking provision in favor of additional housing units.

In many car-dependent locations, high minimum parking requirements are necessary. In a dense urban area such as San Francisco, however, residential parking could be reduced with minimal negative consequences, particularly in high-density, transit-intensive areas. Furthermore, neighborhoods with high population densities that favor public transportation and pedestrian travel rather than catering to automobiles can be highly desirable places to live. San Francisco has the second lowest automobile ownership per capita in the country following New York City, with 40 percent of households not owning a car.<sup>21</sup> Housing policy should be designed to reflect the fact that many San Franciscans use alternative modes of transportation.

Altering parking requirements may cause concern among neighbors of new housing developments. Neighbors often worry that a new development will bring new residents and increase competition for street parking. However, high parking availability often leads to higher automobile ownership rates, which in turn creates the perception that additional parking is needed. This cycle leads to decreased housing density and increased congestion.<sup>22</sup> High-density neighborhoods with limited parking availability are generally associated with low automobile ownership rates, even among affluent residents.<sup>23</sup> Public education about the relationship between parking provision and automobile ownership may help offset concerns about reduced parking requirements.

Some demographic groups such as seniors and low income residents also have much lower rates of automobile ownership.<sup>24</sup> Consequently, housing designed for these groups can have much lower levels of parking without negative impacts. In many such developments, parking goes unused, and the perception of free and abundant parking may even act as an incentive for car ownership or storage of friends' and relatives' cars.

### *Policy Options for Altering Parking Requirements*

There are a number of steps the City could take to reduce the role of parking requirements as a regulatory barrier to housing provision.

<sup>21</sup> US Bureau of the Census for the Department of Housing and Urban Development, *American Housing Survey*, November 2002.

<sup>22</sup> San Francisco Planning Department, *Technical Memorandum: Vehicle Ownership in San Francisco*, Better Neighborhoods 2002, November 2001.

<sup>23</sup> San Francisco Planning and Urban Research Association, *Reducing Housing Costs by Rethinking Parking Requirements*, Report 369, November/December 1998.

<sup>24</sup> U.S. Bureau of the Census, 2000.

- Reduce minimum parking requirements from the current one-to-one ratio in residentially zoned areas. This would allow developers to respond to the particular economic conditions of their project and maximize housing production.
- Set maximum parking rates. This would reduce the total number of parking spaces constructed, and could encourage higher density housing. However, in some cases maximum parking requirements could create a disincentive to housing provision by lowering the sale value of housing units.
- Encourage "unbundling" of parking and housing. Normally, the price of a parking space is included in the sale or rental price of a housing unit. When parking is unbundled, the occupant has the choice of whether or not to purchase or rent a parking space along with the unit. Unbundling makes the price of parking transparent, and allows a buyer or renter to decide whether to pay for parking. When buyers or renters can see the true cost of parking, they may be more likely to make the decision to forgo paying for it, which in turn would lead developers to favor housing construction with lower parking ratios. One study of San Francisco real estate data finds that demand for units without parking is strong: on average, single family units without parking sold 5 days faster than units with parking, and condominium units without parking sold 40 days faster than units with parking.<sup>25</sup> Although developers are currently allowed to unbundle parking, many are hesitant to do so. Some developers may fear lower return on parking spaces if their price is determined explicitly on the market, rather than being folded into housing prices. In addition, both lenders and developers may be wary of unbundling because there is little precedent to provide highly-predictable estimates of the price an unbundled parking space will fetch on the market. In other words, many developers are simply hesitant to experiment with non-traditional methods of parking provision. Explicit encouragement of unbundling in City policy may help to legitimize the practice.

## 6. Maintain Development Fees

The City charges developers a variety of fees for permitting and to offset development impacts. It is within the City's power to reduce or waive those fees in order to lower costs and stimulate housing development. However, fee reductions would have substantial negative impacts on the City's planning and approval functions, and are unlikely to lead to a significant increase in housing production.

Currently, fees account for approximately 3 percent of development costs on average. While this can be a meaningful amount, it is small relative to other costs such as land (19 percent) and building construction (50 percent). Fees in San Francisco are roughly in line with those of other central cities, and are much lower than those in suburban areas, where infrastructure does not exist and must be built along with new housing.<sup>26</sup>

<sup>25</sup> San Francisco Planning and Urban Research Association, *Reducing Housing Costs by Rethinking Parking Requirements*, Report 369, November/December 1998.

<sup>26</sup> San Francisco Planning Department, *Housing Element: Draft for Public Review*, p. 88, and personal interviews with Steve Vettel and Steve Kuklin.



Economic theory holds that if fees are clearly defined and consistently applied, they will be absorbed in lower land costs and will not be a barrier to development. Fees are an expected cost of development, and will not unduly discourage housing development if they are predictable and can be planned for at the early stages of the development process.

Development fees are an important source of funding for City planning functions, and since they can be applied in ways that do not discourage development, the cost to the City of waiving or reducing fees would outweigh the benefits. In many cases, developers would be happy to accept increased fees in exchange for greater certainty in other aspects of the development process. The City can, however, encourage housing development by taking steps to ensure that fees are predictable, transparent, and evenly applied. Any increase in fees should be phased in so as not to impact housing already making its way through the development process.

### STRATEGIES TO REDUCE THE UNCERTAINTY COSTS OF DEVELOPMENT

San Francisco can pursue a number of strategies to reduce the uncertainty costs of development, including:

- (1) Pursuing program environmental impact reports;
- (2) Revising conditional use requirements; and
- (3) Reducing the costs of discretionary review.

Uncertainty in the permitting process, both in terms of likelihood of approval and the estimated length of the process, is one of the greatest challenges for developers in San Francisco. Because of the complicated and politicized nature of the approval process in San Francisco, developers can neither predict the length of the process nor the final outcome. The result is to make the costs associated with this process highly uncertain, which means more risk for developers, lenders, and investors. As with any economic venture, higher risk must be balanced by the potential for higher profits. This uncertainty is a significant barrier to housing production, and partially accounts for the high prices consumers face: it forces developers and lenders to raise their required profit margins on all projects to cover their losses on projects that are unpredictably delayed. These increases in profit margins are ultimately passed on to renters and homebuyers.

Prior to initiating the permit approval process, developers must secure land and pay for engineering and architectural design. These up-front "soft costs" often cannot be financed, and are lost entirely if development does not go forward. But even more costly than losing these investments due to a decisive rejection by the City are the costs associated with ongoing delays during the approval process. Every time that permitting or review is delayed, developers must continue to pay interest on financing, legal fees, and must continue to pay the landowner to hold the land ("land carrying costs"). These costs are highly variable, but reasonable estimates place them near \$1000 to \$2500 per day, depending on the specifics of the development.<sup>27</sup>

*The cost of delays to developers  
can range from \$1000 to \$2500  
per day.*

<sup>27</sup> Personal interviews with Oz Erickson, Jim Chappel, Steve Vettel, Steve Kuklin.

San Francisco is known, and in some cases feared by developers, for its complex and politicized permitting process. Outside developers trying to enter the San Francisco housing market face tremendous barriers due to their lack of parochial understanding. In order to improve their chance of approval and minimize delays and associated monetary costs, developers must be well versed in the intricacies of the City's approval process, making local development experience crucial to success. Developers potentially face hearings before three different elected and politically appointed review boards, regardless of their compliance with all written zoning regulations. As a result, political connections are often another necessary condition for approval. Through these two avenues—the necessity of local experience and political connections—uncertainty in the permitting process works to limit competition in the housing development market in San Francisco.

If the City can increase certainty, reduce delays, and depoliticize the permit approval process, lower costs to developers and increased competition within the housing development market will result. Reducing uncertainty and depoliticizing the development process will draw new developers into the market, creating competition that lowers profit margins, while at the same time minimizing loss of profit due to unpredictable outcomes. These changes will translate into lower costs to renters and buyers, and will stimulate housing production.

## **1. Pursue Program Environmental Impact Reports**

When a developer begins the permit application process by submitting an application to the Planning Department, City staff analyze the proposed project in accordance with the California Environmental Quality Act (CEQA) and issue one of three documents: a Categorical Exemption, Negative Declaration, or an Environmental Impact Report (EIR) (See Figure 6). A Categorical Exemption is a determination that a project is exempt from environmental requirements. A Negative Declaration is a brief report which states that the proposed project, while not exempt from environmental review, will not have any significant impacts. An EIR is a lengthy document intended to provide governmental agencies and the public in general with detailed information about the effect a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project. An EIR details effects on air and water quality, geology and soils, public services and utilities, traffic and parking, historic resources, archaeology, hazardous materials, and aesthetics.

In most cities that are already highly developed, where a new building is unlikely to create significant new environmental impacts, most medium-sized projects will be processed through a Negative Declaration. San Francisco, however, because of the culture of neighborhoods and city government as well as the subjective guidelines for determining which level of review is needed, is particularly strict about requiring new developments to complete EIRs.

Environmental review is often the most time-consuming part of the approval process, taking anywhere from six months to one-and-one-half years, and must be completed before a project is fully permitted. The exact amount of time associated with completing an EIR is uncertain, as the draft, required to be completed within one year, must be publicly reviewed and can be contested.

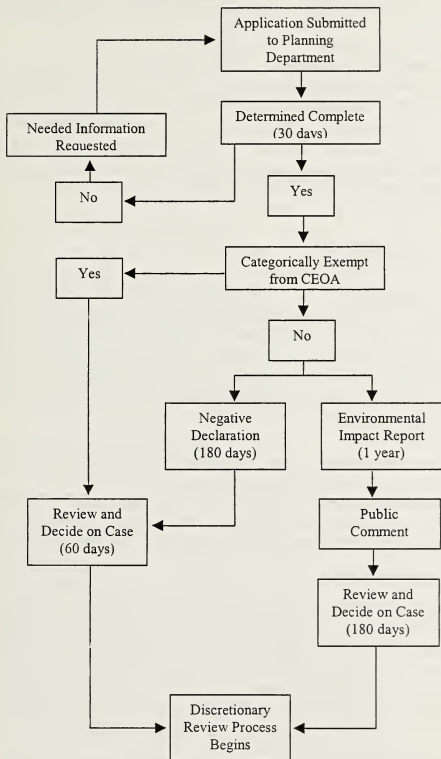
According to the land carrying costs cited above, at \$1000 to \$2500 per day, the costs associated with an EIR (exclusive of the fees themselves) would range from \$183,000 to \$1,370,000.<sup>28</sup>

Currently, EIRs are conducted site-by-site, which means if two developers want to build housing on the same block, with identical height and bulk, they each would conduct separate EIRs and each carry the expense. The City could significantly reduce the uncertainty and expense associated with EIRs by preparing neighborhood-level ("Program") EIRs before proposals for development are even submitted. An EIR could be completed for a particular type of building within a designated area, allowing a developer with a project meeting those guidelines greater certainty.

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<sup>28</sup> The low end of the range is calculated at \$1000 per day for six months; the high end is \$2500 per day for one-and-one-half years.

FIGURE 6. PROCESS FOR ENVIRONMENTAL REVIEW



Each Program EIR would cost the City approximately \$300,000. However, the City could easily recover its costs after the completion of only one Program EIR: any developer proposing a project in that neighborhood could pay a fee to the City for use of the Program EIR. A portion of these fees could then fund the next neighborhood's Program EIR. Fees for use of the Program EIR could be increased significantly from current fee levels without inhibiting development, since developers would be willing to pay additional fees in exchange for increased certainty and a reduction in carrying costs.<sup>29</sup> Conducting program EIRs could thus lower direct costs and uncertainty for developers while simultaneously generating revenue for the City, while in no way compromising environmental standards.

*The City could recover the costs of conducting a Program EIR by charging developers for its use.*

## 2. Revise Conditional Use Requirements

In most cities, including San Francisco, there are two types of permits: Principle Use and Conditional Use. A Principle Use is typically the standard permit issued when there is nothing exceptional about the project proposal. A Conditional Use permit (CU) is designed to provide stricter scrutiny to projects that are seeking exemptions to Planning Code specifications and policies. In San Francisco, however, CU authorization, and the public hearing that accompanies it, is often required in situations even when a development meets all zoning requirements and priorities set forth in the General Plan.

In San Francisco districts that are zoned to allow residential buildings over 40 feet in height, Conditional Use permits are currently required for all residential developments over 40 feet in height.<sup>30</sup> In addition, lots over a given size in neighborhood commercial districts are permitted only as Conditionals Uses.<sup>31</sup> This is particularly restrictive in NC-3 districts, which are transit corridors where high density is most desired, as described earlier. Since the purpose of the zoning in these areas is to allow high-density residential developments, it seems contradictory that all such developments should be subjected to special review. The purpose of these requirements is to ensure adequate public review of relatively large developments, which is a legitimate objective. For example, the automatic CU trigger for large lot sizes is designed to provide an extra level of review for big-box retail and other types of developments that may be out of scale for the neighborhoods in which they are proposed. Similarly, the 40 foot trigger exists for the purpose of ensuring design review for large projects that could substantially impact the character of a neighborhood. However, because these CU requirements are very broadly applied, they

<sup>29</sup> All developers we interviewed affirmed this.

<sup>30</sup> San Francisco Planning Code, Section 253(a): "In any [Residential] District ... wherever a height limit of more than 40 feet is prescribed by the height and bulk district in which the property is located, any building or structure exceeding 40 feet in height shall be permitted only upon approval by the City Planning Commission according to the procedures for conditional use approval."

<sup>31</sup> 5,000 square feet in NC-1, Broadway, Castro Street, Inner Clement Street, Inner Sunset, Outer Clement Street, Upper Fillmore Street, Haight Street, North Beach, Sacramento Street, Union Street, 24<sup>th</sup> Street-Mission, 24<sup>th</sup> Street-Noe Valley, West Portal Avenue. 10,000 square feet in NC-2, NC-3, Hayes-Gough, Upper Market Street, Polk Street, Valencia Street. (San Francisco Planning Code, Section 121.1)

impact a larger number of developments that are outside the scope of the regulation's intent. For example, many housing developments over 40 feet in height could easily be handled at the staff level, and referred to a Commission for review if necessary.

Because many developers know they will face the CU permitting process, they have little incentive to design their projects to meet Planning codes and policy objectives, which in theory should allow them to bypass the longer, more scrutinizing CU process. The result is a large number of developments seeking exemptions, which could cause members of the community to be wary of new development.

In order to receive a CU permit, a developer is required to appear before the Planning Commission, even if their project design fits all Planning Codes and General Plan policies for height and bulk. A developer may have to wait three months (costing \$9000 to \$225,000) for a decision by the Commission. In addition, all actions taken by the Planning Commission regarding a development with a CU permit are subject to appeal to the Board of Supervisors within 30 days. This compels yet another review of a development that has passed environmental review, been approved by the Planning Commission, and seeks no exemptions to City regulations. These arbitrary review requirements add another degree of political uncertainty and risk into the approval process. Removing the 40-foot CU requirement in areas that are already zoned for high-density residential would remove this risk and shorten the review timeline, while simultaneously working to depoliticize the approval process and encourage developers to conform to existing standards.

*Revising Conditional Use requirements will encourage high-density residential developments.*

It is difficult to project the effectiveness of such a policy change in terms of increase in number of units developed, but this policy change will save time and reduce uncertainty, which will translate into dollar savings. These factors working together will encourage high-density residential developments.

Issuing Principle Permits instead of Conditional Use Permits in cases where developments already meet zoning requirements and General Plan priorities also has the potential to save the City a lot of money. Time required for Planning Commissioners to review and decide on the large number of CU cases, and the Supervisors' time for the Board to hear appeals, is expensive.

### 3. Minimize Time Delays Associated with Discretionary Review

Discretionary Review (DR) introduces another source of uncertainty into the permitting process. DR allows an individual to appeal a development project for a minor fee of \$125, and bring the appeal before a City commission (see Figure 7). Discretionary Review comes near the end of the building permit application process, after a developer has already paid for building design and completed an EIR, with significant land carrying costs. At this point, when a development is considered "approvable" by the City, the applicant is required to mail a notice to community



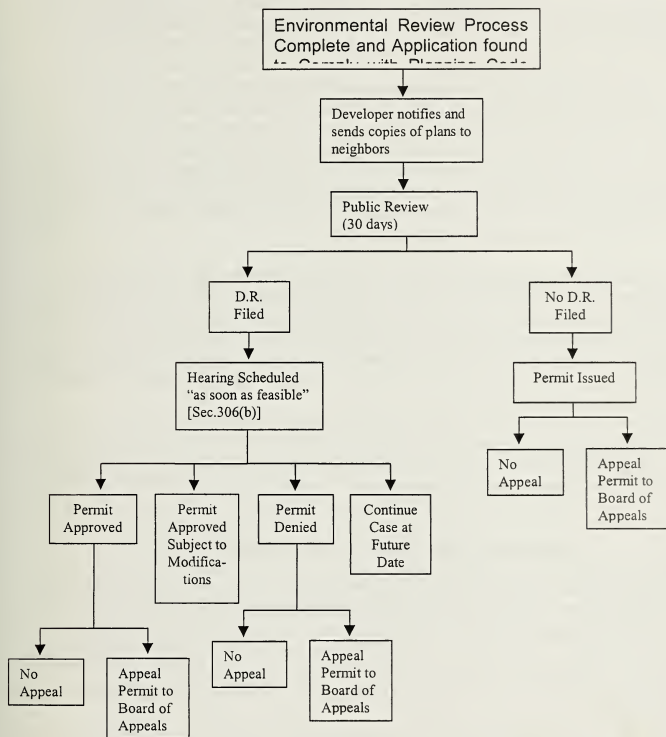
members describing the project and sharing with them copies of the plans. There is a 30-day public review period in which anyone in the City may decide to file a DR request with the Planning Commission. The Zoning Administrator then sets a hearing date "as soon as feasible."<sup>32</sup> The permit is either approved by the Planning Commission, approved subject to modifications, denied, or the case is continued at a future date. Any of these decisions may then be appealed to the Board of Appeals. The total time for this process *before* appeal to the Board of Appeals may be up to 5 months, which means additional carrying costs to developers of \$145,000 to \$362,500. If no DR request is filed, a project may still be appealed to the Board of Appeals once the permit is issued. Such an appeal must be filed within 15 days of the date of permit issuance; however, official issuance of a permit by the Central Permit Bureau may be well after Planning approval.

*Discretionary Review comes near the end of the application process, after a developer has significant sunk costs.*

San Francisco is unique in allowing its citizens so much voice in the development process. The power this affords individuals and neighborhoods has both positive and negative effects on the process of housing development. On one hand, the Discretionary Review and appeals process is an important mechanism for public input, allowing community opposition to halt a development. This imposes an additional layer of accountability on the developer and institutionalizes a mechanism for neighborhood residents to fight undesirable or harmful developments. However, at times this power can be abused for the gain of one individual to the detriment of the larger community and at significant cost to the developer. DR can also be used to politicize the approval process, and can cause rifts within neighborhoods

<sup>32</sup> San Francisco Planning Code, Section 306(b).

Figure 7. Process for Discretionary Review



It is within the authority of the Board of Supervisors or the Planning Commission to modify regulations governing Discretionary Review. For example, the fee for a DR application could be raised to deter frivolous appeals; multiple signatures could be required to ensure the appeal is voicing concerns of more than one resident; restrictions could be put on allowable causes for DR requests; a greater number of DR requests could be heard at the staff level, rather than going before the Planning Commission; or the right to request Discretionary Review could be cut-off earlier in the development process. In some cases, formal mediation of disputes through community organizations could help resolve issues between parties that are currently handled through the public DR process. Although both developers and current residents may be hesitant to commit to legally binding mediation in many cases, encouraging mediation could help provide a less confrontational, consensus-oriented alternative to dispute resolution that would be effective in many situations. Again, fewer reviews before the Planning Commission, Board of Appeals, and Board of Supervisors could save the City money.

Notwithstanding the possibility of mediation, none of the above solutions are ideal, and are diminished by equity concerns. Because of the benefits that accrue to allowing a strong community voice, quieting that voice would have high political and social costs. However, if the City were to facilitate a process for community input, review, and approval before the development process started, a strong community voice could be maintained while at the same time increasing certainty in the process for developers and reducing their costs, thus encouraging and accelerating housing development.

Many of the measures that can be taken to streamline the process can be combined under a comprehensive planning program that will both encourage development and improve community participation in the planning process and community acceptance of new housing, as described below.

### COMPREHENSIVE APPROACHES TO HOUSING DEVELOPMENT

Specific area plans are a concept officially adopted under the California Environmental Quality Act (CEQA) in 1979, although they have been used infrequently in San Francisco. Specific area planning allows local governments to formulate plans for neighborhood-wide development, and to conduct an EIR for the changes to the neighborhood as a whole, rather than on a project-by-project basis. This approach can also be used to build consensus through public involvement prior to development, allowing development to take place smoothly once developers commit to specific projects.

There are several advantages to the comprehensive approach of increasing residential development. First, it helps achieve consensus around a vision for change, identifying appropriate amounts of new housing development in appropriate locations. Second, if done correctly, it allows for extensive community involvement during the planning process, not only in debates over specific projects. Third, it reduces uncertainty for developers and therefore encourages housing development.

Specific area planning has been used with mixed outcomes in San Francisco along the Van Ness corridor, Rincon Hill, and more recently through the Better Neighborhoods pilot program in Hayes Valley, Balboa Park, and the Central Waterfront. Expanded use of specific area planning could provide a major boost to housing production in a way that is acceptable to nearby residents.

The recent planning process for the Octavia Boulevard area illustrates the potential for area planning to maximize community input and achieve neighborhood support for new housing. The Planning Department has devoted significant time and resources to community outreach, and in general residents have responded with support for moderate-density housing development. There will be potential for 7,500 to 13,000 new housing units under the plan, 4,500 to 5,300 of which are expected to be developed over the next 20 years.<sup>33</sup> Many people involved have noted that the process has helped to establish a very positive relationship between the Planning Department and neighborhood residents.

If a neighborhood-level EIR is funded, developers will have the advantage of greater certainty about development costs. Developers will save a significant amount of time and money by knowing that an EIR has been completed. Furthermore, they will know that extensive community outreach has already taken place, and that the community is generally supportive of the neighborhood plan. This will reduce the probability of a project being held up through appeals and permit approval problems.

Although the community input and consensus-building process minimizes the risk of a long DR process, a neighborhood-level EIR alone will not reduce all uncertainty associated with Conditional Use requirements and Discretionary Review. In order to remove uncertainty and streamline housing development, the City may wish to alter CU and DR requirements in areas where an extensive community planning process has taken place. For example, the City could waive the automatic CU trigger for buildings over 40 feet and limit DR for projects that meet criteria explicitly set forth in the neighborhood plan. A highly public planning process will serve the same goals the CU and DR regulations, namely to allow public input and review of projects that could have negative impacts on existing residents. Thus some limitation on CU requirements and DR would be justified. If such limitations are put in place, however, it is crucial that the City conduct aggressive outreach and allow ample opportunity for community input during the planning phase.

### **Facilitate Infill Development**

Specific area planning and the associated community outreach process will be more costly to the City than the current project-by-project planning that is dominant in San Francisco. These costs result from increased expenditure for community outreach and staffing. If the program is to be expanded or enhanced, new funding sources will be necessary. In exchange for the benefits developers in these neighborhoods will derive from the increased certainty and community outreach associated with planning process, the City could charge substantially higher permitting fees. The fees could be channeled into a fund that would be used to pay for future neighborhood

<sup>33</sup> The Market and Octavia Neighborhood Plan, Draft for Public Review. San Francisco Planning Department, December 2002.

planning efforts. As long as the higher fees are exacted in a consistent and transparent manner, and as long as they are set at a reasonable level, they will do little to inhibit housing production if they are accompanied by increased certainty. As discussed above, predictable fees are not a major barrier to housing production because they can be planned for in the early stages of development, and over time the added cost will be partially absorbed in lower land prices. Of course, if fees are raised but policy changes are ineffective in increasing certainty, the higher fees will serve to discourage housing production.

### CONCLUSION

This study suggests that the Board of Supervisors may use its legislative powers to increase housing development in San Francisco by taking any of the following actions: rezoning land use for residential purposes, relaxing the floor-to-area restrictions for housing downtown, increasing density allowances along transit corridors, providing direct subsidies for affordable housing development, allowing flexibility in parking requirements, pursuing program environmental impact reports, revising conditional use requirements, and minimizing time delays caused by discretionary review. Each of these recommendations may stand alone, or any number of them may be combined into a package to effectively promote housing development. Some of these changes have already been proposed in various forms at the Board of Supervisors.

An expanded neighborhood planning program such as the one described above allows planning to be tailored to individual neighborhoods, and thus has the potential to successfully combine many of the enumerated alternatives, as appropriate. Implementation of area planning could simultaneously add certainty to the development process, increase community participation, and create additional revenue for city government.

Different packages of policy changes will have different magnitudes of effect on housing production, and will do so over different lengths of time. For example, zoning changes have the potential to greatly increase housing construction, but the majority of this increase will occur over the long term. Other changes, such as relaxing parking requirements, may have smaller total impacts, but do more to increase affordable housing production. Any of these changes must be evaluated against the City's short term and long term housing goals.

Whether or not the City should take measures to spur housing development is a policy matter for the Board of Supervisors.

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**LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Jennifer Stanley, Office of the Legislative Analyst  
DATE: June 30, 2003  
SUBJECT: Cruise Ship Terminal at Piers 30 and 32

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**SUMMARY OF REQUESTED ACTION**

A motion introduced by Supervisor Chris Daly requests the Office of Legislative Analyst (OLA) to examine the regulatory process for approval of the proposed James R. Herman Cruise Ship Terminal at Piers 30 and 32, provide analysis of state legislation that has been approved and may be proposed regarding this site, and describe efforts in other communities to plan for cruise ship terminals and to provide guidance to City staff in advance of regulatory approvals at the San Francisco Board of Supervisors. The OLA should provide an initial report no later than February 13, 2003 and continue working until all relevant state and local legislation is adopted.

**EXECUTIVE SUMMARY**

This second report on the Cruise Ship Terminal at Piers 30 and 32 addresses existing regulatory requirements for commercial passenger vessels with a focus on environmental standards and comparison of wharfinger (dockage, passenger and cargo) fees. These issues are related to cruise ships in general and are not specific to the proposed new Terminal at Piers 30 and 32. The report provides a summary of existing regulatory requirements and current proposed legislative measures to provide an overall perspective to the San Francisco Board of Supervisors (Board) when making decisions on these issues that come before them.

It was found that there are several layers of government and industry policies, procedures and enforcement efforts that have been established. This is most likely due to the variety of issues and jurisdictional responsibility. The State of California has taken some preliminary legislative actions dealing with reporting of waste, waste water and ballast water disposal. Florida and Hawaii have entered into agreements with industry organizations to address specific environmental issues that are unique to their areas. Locally, the City of Monterey established written commitments from the cruise lines regarding the release of waste-water into the waters of the Monterey Bay National Marine Sanctuary. However these commitments held no legal basis when actually tested and Monterey is in the process of strengthening their position with signed contractual agreements from the cruise lines. Alaska has been the most pro-active in establishing strict passenger vessel environmental standards by legislative action. Many states and countries are utilizing Alaska standards as a model by which vessels must meet when entering local waters.

There has been increased public interest in the potential impacts of cruise ship operations on the environment at the national, state and local level. In addition, there has been an increase in ships calling at the Port of San Francisco with projections that there will be many more visits and/or bigger cruise ships in the future<sup>1</sup>. Therefore, as issues dealing with cruise ships calling in San Francisco come before the Board they may wish to consider ways of achieving greater control, monitoring and enforcement of cruise ship activities. Such actions may include and are expanded on in more detail in the report:

- support of proposed federal and state legislative measures and encourage these institutions to take the lead in coordinating and regulating the cruise ship industry,
- monitor the San Francisco Port's recent adoption of Resolution No. 03-39, environmental pollution control, monitoring and enforcement measures, or
- adoption by the Board of local ordinances that strengthen pollution control, monitoring and enforcement,
- review and consider Bay Area Air Quality Management District air quality mitigation measures.

A Port Economic Impact Study showed that over \$35 million in annual economic benefits are derived from the cruise industry to the City and County through fees, purchases, supplies, and tourism. San Francisco's current wharfage fees generate \$1 million annually to the Port and are competitive with other West Coast ports. Dockage fees are very close to those charged by Los Angeles, Long Beach and San Diego but less than Seattle and Vancouver, B.C. However, San Francisco passenger fees are higher than any other West Coast port (details provided in section on "Wharfing" below)

## BACKGROUND

The San Francisco Port has solicited proposals and has chosen a developer, through a competitive bid process, for development of the James R. Herman Cruise Ship Terminal on Piers 30-32. The 13 - acre project will include 325,000 square feet of office space and 200,000 square feet of retail shops, 5 - acres of open space, as well as a proposed \$15 million adjacent park on the waterfront (Brannan Street Wharf). The project also involves the removal of some 175,000 square feet of dilapidated piers. The project received final approval by the Port Commission on May 25, 2003. The Board approved the Supplemental Environmental Impact Report (EIR) in January 2003.

Cruise ships make up only one percent of all ocean going traffic with shipping vessels being the majority. The cruise ships today that carry thousands of passengers can generate large amounts of waste and therefore have drawn significant public attention. Permissible water discharges by cruise ships are defined as "graywater (from dishwashers, showers, laundry, bath, galleys, and washbasins), blackwater (sewage and medical and dental sink drainage), oily bilge water, sewage sludge and ballast water.

The cruise industry is subject to control and oversight from their flag state (the nation with which they are registered), the port states (the nations at which they make port calls), and in the U.S., the individual states and localities that they visit. International standards are developed by the International Maritime Organization (IMO). With respect to environmental issues, the major international standard applicable to cruise ships is the International Convention for the Prevention of Pollution from Ships, known as MARPOL. This standard addresses such things as operational discharges of oil, disposal of garbage and plastics, and air emissions. Many flag states and port states, including the U.S., have in some cases adopted MARPOL requirements as their

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<sup>1</sup> San Francisco Port Cruise Ship visits: 2000-40; 2001-45, 2002-42, 2003-74 (projected) and 2004-85 (projected).

domestic standard, so that compliance with this convention constitutes compliance with national law<sup>2</sup>. IMO treaties contain no enforcement mechanisms, but require the flag nation that is party to the treaty to act.

A closer look at the federal, state and industry standards is examined in the following discussion.

In addition to the environmental regulatory issues this report includes a comparative sampling of wharfage fees in order to provide the Board with information on where the City stands in comparison with other ports when considering any changes in the fee structure.

## COMMERCIAL VESSEL REGULATORY PROCESS

### **International, Federal and Industry Initiatives**

Cruise ships are an international industry regulated by a variety of governmental and non-governmental organizations including the United Nations International Maritime Organization, the U.S. Coast Guard (USCG), U.S. Environmental Protection Agency and the International Council of Cruise Lines (ICCL)<sup>3</sup>.

The ICCL standards are voluntary industry standards that have no monitoring, legal or enforcement mechanism with them.

Environmental standards for the cruise industry developed through the International Maritime Organization apply to all vessels engaged in international commerce. These standards are set forth in the International Convention for the Prevention of Pollution from Ships (MARPOL). In addition, the U.S. has jurisdiction over vessels that operate in U.S. waters where U.S. laws such as the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, Clean Water Act and air emission standards apply.

According to a U.S. General Accounting Office (GAO) study the country where a ship is registered (the "flag state") is responsible for certifying the ship's compliance with pollution prevention standards, although many nations delegate this task to classification societies, which perform pollution prevention compliance inspections under contract. The country the ship visits (the "port state") can conduct its own examinations to verify the ship's compliance with international standards and can detain the ship if it finds significant noncompliance. The U.S. Coast Guard performs these examinations and enforces standards in U.S. Ports<sup>4</sup>. The Coast Guard is directed to establish a cruise ship inspection and wastewater-sampling regime, examine environmental compliance records and procedures, and inspect the functionality and proper operation of equipment installed for abatement and control of discharges. If violations of U.S. law occur, the Coast Guard can levy administrative civil penalties up to \$25,000 per violation the Coast Guard refers more serious cases to the Department of Justice for possible criminal prosecution. The same GAO report that discusses laws and penalties documented large numbers of environmental violations by cruise ships, i.e. from 1983-88 104 confirmed cases of illegal dumping and fines of \$30 million were imposed on cruise ships.

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Holland & Knight LLP, *Environmental Compliance in the Cruise Industry*, Dennis L. Bryant, May 31, 2001

The International Council of Cruise Lines (ICCL) is a non-profit trade association that represents the interests of 16 passenger cruise lines in the North American cruise market and cruise industry business partners.

<sup>4</sup>GAO Marine Pollution: *Progress Made to Reduce Marine Pollution by Cruise Ships, but Important Issues Remain*. February 2000

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### *Proposed 2003 Federal Legislative Measure*

The U.S. Coast Guard is finalizing a national ballast water policy to prevent the introduction of foreign aquatic species into coastal and internal waters of the U.S. These policies will be based upon laws primarily impacting international cargo and passenger vessels that arrive from foreign destinations H.R. 1080 and S. 525 National Aquatic Invasive Species Act of 2003 is a re-authorization of the original Act of 1990.

### **State and Local Government Initiatives**

In addition, coastal states, such as Florida, Alaska and California have enacted similar laws strictly regulating pollution from ships traveling within state waters. These laws, which supplement federal laws, also apply to foreign-flag vessels and are in some instances even more stringent.

**The State of California** has enacted legislative measures and is considering new legislation in 2003. Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (SWRCB) is the principal state agency with primary authority over water quality matters. Under the act, the Board prescribes waste discharge requirements for the discharge of waste into the waters of the state. Also, the State Lands Commission has been designated by the Legislature to administer the state's ballast water program.

- AB 703 (1999)<sup>5</sup> The Ballast Water Management for Control of Nonindigenous Species Act (Act). The Act established a statewide multi-agency<sup>6</sup> program with the intent to control the introduction and spread of nonindigenous aquatic species (NAS) in the waters of the State. The measure created an Exotic Species Control Fund to receive fees and penalties assessed on any ship to port in California. The provisions of this bill are to sunset on January 1, 2004, unless new legislation is enacted before that date<sup>7</sup>. AB 433 (2003), would reauthorize the program (see section on *Proposed California 2003 Legislative Measures*).
- AB 2746 (2000) created the Cruise Ship Environmental Task Force<sup>8</sup>. The primary responsibilities of the Task Force include:

<sup>5</sup>AB 703 pertains to cargo and cruise vessels and only addresses ballast water discharges. A recent report by the State Lands Commission indicated a high degree of cooperation and compliance by the shipping lines in providing information as well as compliance with payment of the required fees. No civil penalties for non-compliance with the program have been levied to date however there are cases pending. In addition, the State Lands Commission has made a number of recommendations to the State Legislature including: reauthorization of the program, broadening the areas that are to be monitored and strengthening the enforcement provisions.

<sup>6</sup>Responsible agencies involved in implementation of the Act include the California State Lands Commission, California Department of Fish and Game, State Water Resources Control Board, and the State Board of Equalization.

<sup>7</sup>It should be noted that cruise ships have continued to violate state ballast water law. Bluewater Network sued four cruise lines, resulting in a court order against Carnival to stop illegal ballasting practices. Three other cruise lines agreed not to dump ballast water in state waters anymore.

<sup>8</sup>The Cruise Ship Environmental Task Force comprised of representatives of the State Water Resources Control Board (SWRCB), the Department of Fish and Game, the Department of Toxic Substances Control, the Integrated Waste Management Board the State Lands Commission, and the State Air Resources Board and the U.S. Coast Guard.

Requiring owners or operators of large passenger vessels to submit certain copied documents, when requested by the task force, regarding waste released or offloaded after January 1, 2001, from vessels in California. The task force can request further information.

Requires the owner or operator of a vessel to submit a quarterly report to SWRCB of graywater and sewage releases in state marine waters that occurred during the previous quarter that the vessel was located in state marine waters, to the extent that these releases can be reasonably quantified.

Directs the Air Resources Board to measure and record visible emissions, excluding condensed water vapor, of a representative sample of large passenger vessels while at berth or at anchor in a state port.

The Task Force is to report to the State Legislature regarding the provisions outlined in the legislation<sup>9</sup>.

The provisions of this bill expired on July 1, 2003.

*Proposed California 2003 Legislative Measures:*

AB 121 (Simitian) prohibits cruise ships from discharging sewage, oily bilgewater, and ballast water into state waters and the four national marine sanctuaries along the state's coast. Bill status as of June 30, 2003, AB 121 passed the Assembly is pending hearing on July 7, 2003 in the Senate Environmental Quality Committee.

AB 433 (Nation) revises the California Ballast Water Management for Control of Nonindigenous Species Act and extends the Act's sunset date to January 1, 2010 (re-authorizes AB 703). The bill addresses many of the recommendations made in the State Lands Commission's (Commission) report to the Legislature that was required by AB 703<sup>10</sup>. Bill status as of June 30, 2003, AB 433 passed the Assembly is pending hearing on July 7, 2003 in the Senate Environmental Quality Committee.

AB 471 (Simitian) places restrictions on cruise ships in order to reduce air pollution off of the California coast. Bill status as of June 30, 2003, AB 433 passed the Assembly is pending hearing on July 7, 2003 in the Senate Environmental Quality Committee.

AB 906 (Nakano and Laird) prohibits cruise ships from discharging from kitchens, laundries and showers, and hazardous wastes such as dry cleaning and photo processing chemicals, into the marine waters of the state or national marine sanctuaries in the marine waters of the state<sup>11</sup>. Bill status as of June 30, 2003,

<sup>9</sup> The Task Force has completed its work and the report to the Legislature is being processed through the necessary channels.

<sup>10</sup> The bill includes the following provisions: 1) requires the Commission to develop regulations governing the discharge of invasive species for vessels moving with the exclusive economic zone (EEZ) and grants the Commission enforcement authority. The EEZ extends from the baseline of the territorial sea of the U.S. seaward 200 nautical miles, 2) incorporates coastal traffic within the ballast water program's reporting, fee and penalty provisions and 3) expands the ballast water reporting requirements to include reporting for each port of arrival 4) expands the persons to whom civil liability may apply 5) requires vessels to retain and make available to the Commission a separate ballast water log and 6) requires the Commission to take samples from at least 25% of arriving vessels subject to nonindigenous species control requirements.

<sup>11</sup> The bill includes the following provisions: 1) requires the owner or operator of a cruise ship to immediately notify the Department of Fish and Game and the State Water Resources Control Board (SWRCB) of specified releases, 2) authorizes SWRCB to adopt regulations to board and inspect a vessel, 3) requires the owner or operator of a cruise ship to submit reports to the SWRCB concerning the release of waste into the marine waters of the state and national marine sanctuaries, and 4) authorizes civil penalties to be imposed on persons who violate the provisions of the bill.

AB 906 passed the Assembly is pending hearing on July 7, 2003 in the Senate Environmental Quality Committee.

**The Port of San Francisco (Port)** relied on existing international, federal, and state laws and regulations and industry policies and procedures that govern environmental issues, monitoring and enforcement for the cruise lines until the Port Commission adopted Resolution 03-39 on June 12, 2003 (details below).

As part of the proposed new Cruise Terminal at Pier 30-32 and mixed-use project, the Major Environmental Analysis Division of the San Francisco Planning Department completed an environmental review under the California Environmental Quality Act (CEQA). The Supplemental Environmental Impact Report (SEIR) was published in November 2001 and was certified by the Planning Commission on May 2002. Bluewater Network filed an appeal to the Board of Supervisors, and the Board remanded the SEIR to the Planning Commission. City and Port staff and the cruise terminal developer worked with Bluewater Network to revise the document culminating in a letter from Bluewater Network supporting the revisions. The SEIR was revised and certified by the Planning Commission in November 2002. San Franciscans for a Healthy Waterfront filed another appeal, and the Board rejected that appeal thereby certifying the SEIR in January 2003.

On March 25, 2003, the Port Commission adopted the CEQA findings, including implementation of a Mitigation Monitoring and Reporting Program. The CEQA findings include mitigation measures designed to address cruise terminal environmental impacts.

The Port Commission on June 12, 2003 took a pro-active stance by adopting Resolution No. 03-39 (attachment A) that establishes a policy to prohibit cruise ships using Port facilities from discharging sewage, gray water, hazardous waste, solid waste, fuel or oil-related substances, or unauthorized ballast water into San Francisco Bay waters until such time as wastewater treatment methods and ballast water treatment methods are specifically authorized by state or federal agencies empowered by statute to make such authorization. The resolution implements these policies by requiring Port staff to prepare a standard form berthing agreement for adoption by the Port Commission that will require cruise lines to comply with all laws regarding discharge. Reporting of incidental or intentional discharges within San Francisco Bay to the Port's Maritime Operations Manager must be done within 24 hours. Failure to make a report may result in denial of future berthing at the Port.

In addition, the Resolution provides for a financial incentive program to be adopted by the Port Commission that will encourage cruise ships to burn low sulfur fuel while in berth.

The Resolution creates water and air quality advisory groups comprised of representatives from the maritime industry, regulatory agencies, environmental organizations and community groups to maintain an on-going dialogue on the environmental impacts created by the cruise ships.

**Monterey, California** does not have a terminal for ships to dock therefore they must anchor in Monterey Bay and shuttle passengers ashore. Monterey had its first request for cruise ship visits in 2002. In response to the request for visits and a lack of trust by some toward the cruise ship industry, the City of Monterey adopted a "Cruise Ship Action Plan" in the spring of 2002 and received written commitments, by letter, from the cruise lines that had scheduled visits in 2002 of a no discharge policy within the Monterey Bay National Marine Sanctuary (MBNMS) waters. This policy applied to all wastewater, ballast water, water discharged through the oily water separator, and all forms of solid waste.

As a result of the State of California's reporting requirements under AB 2746 (see summary above) it was learned that Crystal Cruise Line vessel "Crystal Harmony" had indeed discharged waste products into the waters of the MBNMS at its time of departure (14 miles off-shore) but had not reported it to the City of Monterey. The cruise line indicated that they had no obligation to report the discharge to the City since they had not violated any existing laws, only a written commitment to the City not to discharge.

On March 18, 2003 the City of Monterey passed a resolution banning Crystal Cruise Line ships from visiting the City of Monterey for a period of 15 years, and the vessel "Crystal Harmony" forever. In addition, the City tightened its "Cruise Ship Action Plan" to implement stronger enforcement actions and monitoring in the future. The City of Monterey has created a standard "Letter of Agreement" (attachment B) to enter into with each cruise ship line that wishes to visit the area. These contracts will be signed by authorized cruise ship representatives and will state the city's conditions on the ship visit and reporting requirements.

Carl Anderson, Public Facilities Director for the City of Monterey, stated that monitoring cruise ship activity is extremely difficult due to their movement both during the day and at nighttime.

*Note:* In an effort to respond to concerns over the environment, some cruise companies have installed sophisticated sewage treatment systems on some cruise ships. The "Rochem" system technology separates and filters the material until drinkable water is produced. This system is recognized by the State of Alaska and the U.S. Coast Guard to be good enough to allow the discharge of its effluent (water) even while in Port and in sensitive habitats. The City of Monterey has accepted this system to be utilized in the MBNMS and if random testing is allowed. This system treats gray and black water but not ballast water.

The County of Santa Cruz adopted Resolution No. 321-2002 on August 13, 2002 that recommended "Zero Discharge Policy for Cruise Ship Operations in the Monterey Bay National Marine Sanctuary.

**Hawaii and Florida:** The states of Hawaii and Florida have entered into Memorandums of Understandings (MOU's) with their respective industry organizations and the State of Maine is in the process of drafting an MOU. MOUs are utilized by the states to address specific practices to protect the unique environments in which the vessels travel when no federal or state laws exist to address these special issues.

The Governor of Hawaii entered into a Memorandum of Understanding (MOU) with the North West CruiseShip Association (NWCA)<sup>12</sup> in October 2002. The MOU principally accepts the ICCL Industry Standards<sup>13</sup> in the management of solid waste, hazardous wastes and wastewater. In addition to the ICCL Practices, specific unique practices were agreed upon to be followed when the vessels are among the Hawaiian Islands.

The State of Florida in 2000 entered into an MOU between the Florida Department of Environmental Protection (FDEP); the Florida-Caribbean Cruise Association (FCCA) and the ICCL, as representatives of the cruise industry in Florida. Similar to Hawaii, the MOU states FDEP'S acceptance of a set of waste management practices and procedures and formalized an agreement between the FDEP, the FCCA and its members, and the Coast Guard to work together on discharge management proposals, meeting on an annual basis.

<sup>12</sup> NWCA is a non-profit entity organized for the purpose of representing member cruise lines which operate in and about Hawaii. Membership includes Carnival Cruise Lines, Celebrity Cruises, Crystal Cruises, Holland America Line, Norwegian Cruise Line, Princess Cruises, Royal Caribbean Cruise Line, World Explorer, Radisson Seven Seas and Seabourn.

<sup>13</sup> ICCL Industry Standard E-01-01, titled Cruise Industry Waste Management Practices and Procedures.

**The State of Washington** (Port of Seattle) accepts the ICCL Guidelines as their operating practice, augmenting International, National, Port and Flag State requirements. The Port of Seattle is requiring that diesel powered cruise ships homeported at its new cruise terminal burn only on-road quality diesel in port. In addition, the State of Washington is now considering regulations to extend these protections to state waters.

**The State of Maine** is also moving legislation that will prevent dumping by cruise ships in its waters.

**The State of Alaska** has taken considerably stronger actions than other states. In 2001 Alaska enacted House Bill 260, and adopted regulations that:

- requires certain passenger vessels operating in the marine waters of the state to register the vessels for the purpose of establishing information-gathering, record keeping, and reporting requirements relating to the vessels' graywater and sewage;
- prohibits the discharge of untreated sewage from the vessels unless exempted;
- places limits on discharges of treated sewage and graywater;
- establishes a commercial passenger vessel coastal protection fund;
- established a fee on commercial passenger vessels, for each voyage during which the vessels operate in the marine waters of the state (based on the overnight accommodation capacity of the vessels);
- establishes penalties for failure to comply with certain laws;
- requires other non-substantive program activities.

## **Recommendations**

The cruise ship industry is aware of the public interest in their environmental impacts and are working with Federal and State government agencies and stakeholders to continue making improvements. New technologies are being introduced to assist in their efforts. For an industry whose reach extends globally, international, national, and state, uniform standards and regulations are preferable to local standards because they provide for regulatory consistency. Therefore, it is first recommended that the Board consider support of proposed 2003 Federal measures H.R.1080 and S.525 re-authorization of the National Aquatic Invasive Species Act of 2003.

Second, that the Board review and support those initiatives at the state level that will best strengthen monitoring, reporting and enforcement of passenger vessel water discharges and air quality issues, AB 121, AB 433, AB 471 and/or AB 906. The Port of San Francisco has been working with the author of AB 433 and is supportive of this bill, as are the advocate environmental organizations. AB 121, AB 471 and AB 906 are measures that are principally supported by environmental organizations but not the industry.<sup>14</sup>

Third, upon issuance of the report by the California Environmental Protection Agency Cruise Ship Environmental Task Force, review the Task Force recommendations and work to support those that will best address San Francisco's concerns with cruise ship environmental impacts.

Fourth, encourage further federal and state legislation to regulate cruise vessels in U.S. and state waters in an effort to provide consistency and continuity for the industry and provide needed environmental protections.

Fifth, monitor on a regular basis the implementation by the Port of Resolution No. 03-39.

<sup>14</sup> Note: As the legislative process is very liquid and amendments are consistently introduced to bills it is important to review the latest update of the measures before moving forward with a position of support or opposition



ninth, request an opinion from the City Attorney on the legality of adopting a local ordinance that may address passenger vessel pollution issues, passenger fees and compliance.

Lastly, cruise ships admit a tremendous amount of air pollution, as much as the daily emissions equal to those of the Hunters Point Power Plant or in a single day, a cruise ship pollutes as much as 12,240 cars. In Resolution No. 03-39 the Port took initial steps to address air pollution emissions by cruise ships by establishing a Cruise Ship Air Quality Advisory Group and recommended adoption of an incentive program for ships that meet or exceed the emissions reduction criteria. However, the Board may wish to consider additional proposals as put forth by the Bay Area Air Quality Management District letter of June 3, 2003 addressed to Supervisor Peskin and members of the Board (attachment C).

### WHARFINGER

Cruise ships provide an economic benefit to the City and County through fees, purchases, supplies, and tourism. San Francisco's current wharfage fees generate \$1 million annually to the Port and are competitive with other West Coast ports. Dockage fees are very close to those charged by Los Angeles, Long Beach and San Diego but less than Seattle and Vancouver, B.C. However, San Francisco passenger fees are higher than any other West Coast ports (see Table II below).

The S.F. Port Terminal Operator Schedule Tariff No. 4 establishes the rules, regulations, rates, and other provisions applying to the services and for the use of the wharfinger facilities under the jurisdiction of the S.F. Port Commission<sup>15</sup>. There are three principal established charges<sup>16</sup> related to cruise ship activities at the Port: 1) dockage fees, 2) cargo wharfage and, 3) passenger fees.

- Dockage is based on the overall length of the vessel (which is the linear distance, expressed in meters, of the extreme length of a vessel) and the period of time at berth (see Appendix A for Dockage Rates). Specified exemptions are provided for under Schedule No. 4 based on qualified circumstances, i.e. repairs, military, etc. The Port has also created a Volume Incentive Program (VIP)<sup>17</sup> that reduces the standard dockage fee by 50% based on standard criteria. The Port estimates that the average vessel dockage fee is \$4104 per 24 hours.
- Cargo wharfage charges are \$5.67 per revenue ton (weight or measure-the greater of the two).

<sup>15</sup> All rates, rules, regulations and provisions of Schedule No. 4 receive authority for enforcement from and are subject to the City of San Francisco's Charter, applicable City Ordinances, and Police Code.

<sup>16</sup> The Port has a number of charges for various services provided to vessels however this study only addresses dockage and passenger fees for comparative purposes.

<sup>17</sup> Volume Incentive Program (VIP) vessels is any passenger cruise ship that is owned and/or operated by an entity that 1) books eight or more calls at S.F. by any of their owned/operated cruise ships within a calendar year; and 2) embarks/disembarks a total of 12,000 or more passengers (excluding transit passengers) at S.F. within a calendar year. (Source: Port of S.F. Schedule No. 4, Rule: 10, Section 10 - Passenger Fees).



- Passenger fees for embarking or disembarking passengers from a Port-of-Call passenger cruise vessel is \$10 each and passenger fee for transit passenger is \$6 each. VIP passenger cruise ship fees are calculated on a sliding scale<sup>18</sup>.

**Table I. VIP Program**

Number of Passengers	Fee Charged Per Passenger
1 – 8,000	\$9
8,001 – 16,000	\$8
16,000 – 24,000	\$7
24,001 – 32,000	\$6
32,001 and over	\$5

The Port estimates that the annual revenues generated by the cruise ship vessels in fees (dockage, passenger and misc. charges) will total \$1 million (passenger revenue \$762,000, dockage \$100,000, misc. \$160,000) for calendar year 2003. These funds are part of the Port's general fund account.

Monterey established a \$1 per passenger landing fee that was raised to \$5 earlier this year to cover City services; including vessel traffic safety, the use of a passenger boarding float, crowd control and police protection, water quality monitoring, bus staging locations, business and education booth space, traffic control and increased facilities maintenance.

Alaska, as part of its legislative actions (HB 260) instituted approximately a \$1 per passenger environmental compliance fee.

**TABLE II. PASSENGER CRUISE: COMPETING PORT CHARGES<sup>19</sup>**

	Vancouver B.C.	Seattle	S.F.	L.A.	Long Beach	San Diego
Dockage per meter	\$18.88	\$29.53	\$16.09	\$16.09	\$16.09	\$16.47
Dockage per Ship (avg.)	\$4,549	\$7,116	\$4,104	\$4,104	\$4,104	\$4,200
Cargo Wharfage/Rev. ton	\$1.30	\$9.00	\$5.67	\$5.67	\$5.67	\$5.87
Cargo Whfg. Per Ship (avg.)	\$391	\$2,700	\$1,701	\$1,701	\$1,701	\$1,761
Embark/Debar Pass. Fee	\$6.60	\$6.00	\$10.00	\$9.50	\$6.33	\$4.84
Transit Passenger Fee	\$6.60	\$6.00	\$6.00	\$0.00	\$6.33	\$1.82
Passenger Fees per Ship (avg.)	\$12,857	\$11,688	\$18,286	\$15,669	\$12,331	\$8,526

Funds are appropriated by the State Legislature to the Department of Environmental Conservation for purposes of implementation of the state laws and regulations.

<sup>18</sup> Passenger fees were last increased as of January 1, 2003 by the Port.

<sup>19</sup> Port of San Francisco: *Passenger Cruise Competing Port Charges – Analysis*

Civil penalties may be imposed on commercial passenger vessels when violations of the law and regulations have been determined.

#### **No Recommendations on Wharfage Fees**

**PORT COMMISSION  
CITY & COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 03-39**

- WHEREAS, San Francisco's passenger cruise industry has great economic impact on the local community, generating each year nearly \$10 million in wages and benefits, \$25 million in purchases of local goods and services, and over \$1 million in local and state taxes; and
- WHEREAS, Survival of the Bay Area's maritime industry depends heavily upon business generated by cruise ships, including nearly 50,000 man-hours of work each year for hundreds of skilled, union workers from 10 different trades; and
- WHEREAS, On March 25, 2003, by Resolution No. 03-28, the San Francisco Port Commission approved transaction documents to allow, subject to Board of Supervisors approval of the lease, the development of a new cruise facility at Piers 30-32; and
- WHEREAS, Those documents would require cruise lines using the new facility to follow "Best Management" practices for air and water quality endorsed by leading environmental advocacy groups, and
- WHEREAS, Those documents also require creation of local air and water quality advisory groups to oversee operating practices; and creation of a fee incentive program for ships that meet or exceed emissions standards set by the advisory group; and,
- WHEREAS, Continued protection of the water quality of the San Francisco Bay is critical for living resources and a key element of maintaining quality of life for residents of the City and County of San Francisco; and
- WHEREAS, In 2002, 3028 ocean-going vessels entered San Francisco Bay, and 1.4 percent (or 42) of them were cruise ships calling at the Port of San Francisco; and
- WHEREAS, The cruise industry is one of the fastest-growing segments of the travel industry, having served nearly seven million passengers in the year 2000 and operated 123 ships, with a total economic impact in the United States estimated to exceed \$15 billion; and
- WHEREAS, The businesses and commerce relating to passenger cruise ship calls at San Francisco currently generate over \$35 million each year in wages and benefits, business revenues, and state and local taxes, and create hundreds of jobs; and
- WHEREAS, The cruise industry provides significant economic benefits to both San Francisco's visitor industry and the City's maritime industries, such as ship repair, harbor services, longshore labor, and ship chandlers; and
- WHEREAS, The cruise ship industry is regulated by international, national, and state authorities; and
- WHEREAS, International standards for cruise ships are developed by the International Maritime Organization (IMO), including inspection and surveying of cruise ships by classification societies; and

- WHEREAS, The primary international environmental standard governing cruise ships is the International Convention for the Prevention of Pollution from Ships, commonly referred to as MARPOL, which addresses operational discharges of oil, disposal of garbage and plastics, and air emissions; and
- WHEREAS, International treaties to which the United States is a party have adopted MARPOL as their domestic standard so that compliance with this convention constitutes compliance with national law; and
- WHEREAS, The United States has also adopted a series of national environmental laws that are applicable to all cruise ships operating in U.S. waters, including: (1) the Federal Water Pollution Control Act (FWPCA), often referred to as the Clean Water Act (CWA), which prohibits the discharge of oil and hazardous substances into the waters of the U.S.; (2) the Clean Air Act (CAA), which authorizes the Environmental Protection Agency (EPA) to establish air emission standards and impose civil penalties for emissions in excess of those standards; and, (3) the Resource Recovery Act (RRA), which authorizes the EPA to establish regulations relating to the handling and disposal of hazardous waste; and
- WHEREAS, In January 2003, the California State Lands Commission hosted a two-day "West Coast Ballast Water Conference" that included representatives from environmental groups, research scientists, ports, the maritime industry, and members of state and federal resource and regulatory agencies from California, Oregon, Washington, and British Columbia; and
- WHEREAS, The participants at that conference identified issues pertaining to ballast water and invasive species, potential short-term and long-term solutions that could apply throughout the West Coast, and areas where additional scientific research is needed; and,
- WHEREAS, As a result of those deliberations, The Ocean Conservancy, a nationally known environmental group, drafted legislation, introduced into the California legislature as AB 433, to establish a comprehensive and effective science-based ballast water program for all maritime vessels in the State of California; and,
- WHEREAS, In the United States, the U.S. Coast Guard has primary jurisdiction over environmental matters in ports and waterways and conducts passenger ship inspections that review environmental systems and practices; and,
- WHEREAS, The U.S. Coast Guard is the primary Federal agency having jurisdiction over environmental and safety aspects of maritime vessel operations, including the operations of cruise ships; and,
- WHEREAS, The State of California has residual authority to exercise authority in environmental protection; and,
- WHEREAS, California has exercised that authority by creating programs addressing ballast water discharges and air emissions by all commercial vessels, including cruise ships; and,
- WHEREAS, The United States General Accounting Office (GAO) published a Report to Congressional Requesters in February 2000 entitled "Marine Pollution—Progress

Made to Reduce Marine Pollution by Cruise Ships, But Important Issues Remain," which addressed cruise ship environmental performance for the period of 1993-98; and

- WHEREAS, That report concluded that while federal agencies and the cruise industry have taken positive steps to improve environmental performance and compliance, continued progress is needed; and
- WHEREAS, Approximately 54 new cruise ships are either under construction or on order, and each new generation of cruise ships incorporates further improvements in shipboard environmental systems; and
- WHEREAS, The Port of San Francisco's current cruise term at Pier 35 was constructed in 1914 and is nearing the end of its useful life as a modern cruise terminal; and,
- WHEREAS, The Port is in the process of developing a new international cruise terminal at Piers 30-32, to be named after labor leader James R. Herman; and
- WHEREAS, The Port currently utilizes Pier 35 for cruise ship operations; and
- WHEREAS, The Port recognizes that continued protection of the water quality of the San Francisco Bay is both critical for living resources such as marine mammals, birds, fish, sea turtles, invertebrates and marine algae, and a key element of maintaining quality of life for residents of the City and County of San Francisco; and
- WHEREAS, Recognizing that environmental issues related to Bay Area water quality and air quality are regulated most effectively on a regional, statewide and federal level, the Port desires to adopt a program that is legally within its authority and is appropriate on a local level to maintain and improve the Bay environment; now, therefore, be it
- RESOLVED, The Port Commission hereby declares that it is the policy of the San Francisco Port Commission to prohibit cruise ships using Port of San Francisco cruise terminal facilities from releasing incidental or intentional discharges of sewage, gray water, hazardous waste, solid waste, or fuel or oil-related substances into San Francisco Bay waters until such time as new wastewater treatment methods that adequately meet water quality standards that are authorized by state or federal agencies empowered by statute to make such authorization; and, be it
- RESOLVED, The Port Commission hereby declares that it is the policy of the San Francisco Port Commission to prohibit cruise ships using Port of San Francisco cruise terminal facilities from releasing unauthorized discharges of ballast water into San Francisco Bay waters until such time as ballast water treatment is specifically authorized by state or federal agencies empowered by statute to make such authorization; and, be it further
- RESOLVED, That the Port Commission hereby directs the Executive Director or his designee within 90 days of the date hereof, to bring back a comprehensive program implementing the Port policies adopted by this Resolution, which program shall include the following components:
- (1) Preparing a standard form berthing agreement for Port Commission approval and adoption which will include the following provisions:

(a) All Cruise Ships shall comply with all applicable laws, including, without limitation, all applicable local, state and federal laws regarding discharge of sewage, gray water, hazardous waste, solid waste, fuel or oil-related substances, ballast water and wastewater into San Francisco Bay;

(b) All Cruise Ships shall be agree to not release incidental or intentional discharges of sewage, gray water, hazardous waste, solid waste, or fuel or oil-related substances into San Francisco Bay waters until such time as shipboard wastewater treatment methods that adequately meet water quality standards are authorized by state or federal agencies empowered by statute to make such authorization;

(c) All Cruise Ships shall agree to not release unauthorized incidental or intentional discharges of ballast water into San Francisco Bay waters until such time as shipboard ballast water treatment is specifically authorized by state or federal agencies empowered by statute to make such authorization;

(d) All Cruise Ships shall report to the cruise terminal operator and the Port Maritime Operations Manager all incidental or intentional discharges within San Francisco Bay and failure to report any discharge within 24 hours may result in denial of future berthing at the Port of San Francisco; and

(e) Cruise Ships found to be out of compliance with any provision of the Port's berthing agreement more than three times in any 24 month period will be restricted or may be prohibited from future berthing rights at the Port of San Francisco; and

(2) Establishing a mechanism with government agencies having jurisdiction over Bay water quality to verify compliance with applicable regulations and contract provisions; and

(3) Periodically considering for adoption recommendations from the Cruise Ship Water Quality Advisory Group created by this Resolution; and be it further

RESOLVED, That the Port does hereby establish a Cruise Ship Water Quality Advisory Group, advisory to the Port Commission, which group will meet on a regular basis to address Cruise Ship discharge issues and make recommendations to the Port Commission regarding the implementation and/or enforcement of measures to prohibit Cruise Ship discharges into the Bay; and, be it further

RESOLVED, That within ninety days of the date hereof, the Executive Director is hereby directed to appoint members to the Cruise Ship Water Quality Advisory Group, which shall include representatives of the cruise lines, Coast Guard, Regional Water Quality Control Board, the Port, San Francisco Cruise Terminal LLC (SFCT), the Port's cruise terminal operator, the State Lands Commission, the San Francisco Bar Pilots, at least one environmental organization whose primary stated purpose is to address San Francisco Bay water quality issues, and the Rincon Point-South Beach Citizens Advisory Committee, and shall report back to the Port Commission on such appointments; and be it further




RESOLVED, That the Port does hereby establish a Cruise Ship Air Quality Advisory Group, advisory to the Port Commission, which group will meet on a regular basis with the purpose of establishing reduction criteria and corresponding incentives for consideration by the Port Commission to reward cruise lines that meet or exceed the emissions criteria, and which would review and recommend to the Port Commission feasible measures to address air quality impacts, including the potential use of technologies, such as shore-based power, and alternative fuels, such as low sulfur content fuel, and reduced ship speeds, if proven effective in reducing nitrogen oxide and PM<sub>10</sub> emissions; and be it further

RESOLVED, That within ninety days of the date hereof, the Executive Director is hereby directed to appoint members to the Cruise Ship Air Quality Advisory Group, which shall include representatives from the cruise industry, Bay Area Air Quality Management District, the Port, SFCT, the San Francisco Bar Pilots, the Port's cruise terminal operator, the Rincon Point-South Beach Citizen's Advisory Committee, a local area public health organization, and at least one environmental organization whose primary stated purpose is to address issues pertaining to air quality in the Bay Area, and shall report back to the Port Commission on such appointments; and be it further

RESOLVED, Following consultation with the Advisory Group, the Port Commission shall adopt an incentive program which shall involve reduced fees for ships that meet or exceed the emissions reduction criteria and will also include Port recognition and promotion of cruise lines that are committed to environmentally responsible operations, including the deployment of ships using reduced emission system technology or cleaner burning fuel.

*I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of June 12, 2003.*

  
Secretary

## LETTER OF AGREEMENT

## CRUISE SHIP VISITATIONS

This agreement between the City of Monterey (CITY) and \_\_\_\_\_ outlines the responsibilities for their vessel \_\_\_\_\_ (SHIP) while visiting Monterey and utilizing CITY services on the following date(s) \_\_\_\_\_, 200\_. In consideration of CITY allowing SHIP to enter within the jurisdiction of its waters, SHIP hereby agrees as follows:

## I. DISCHARGES IN THE MONTEREY BAY NATIONAL MARINE SANCTUARY

- A. SHIP agrees that it will withhold all discharges, to include all gray, black, bilge, hazardous waste (photo processing, dry cleaning etc.), solid wastes, sludge and ballast waters, while it operates or resides within the boundaries of the Monterey Bay National Marine Sanctuary (MBNMS). Engine cooling water may be discharged. SHIP agrees to withhold all other discharges while within the MBNMS boundaries, or
- B. If SHIP is equipped with a sewage treatment system that creates tertiary-treated water from ALL gray and black water, it may discharge these provided it meets all of the following criteria.
  1. The system must be verified with letters from the United States Coast Guard, the California Regional Water Quality Control Board and any other agencies as required by law, including the MBNMS for use within California waters.
  2. SHIP must agree to allow random testing of the tertiary-effluent during its visit to Monterey.
  3. Bilge and ballast waters, sludge and hazardous materials must still be held aboard while within the MBNMS.

## II. REPORTING PROCEDURES

- A. The SHIP Captain, or his designee, immediately upon leaving the boundaries of the MBNMS, shall provide a verbal report via radio or telephone to the Monterey Harbormaster's Office as to whether or not any discharges occurred. Two phone numbers are available for reporting: 831/594-7760, or 831/239-1219. The second number accepts messages.
- B. The SHIP's parent company shall provide a written report to the CITY, within 14 days of the SHIP departure from Monterey, detailing any discharges that occurred. This report may be provided by fax to the Harbormaster's Office at 831/646-5674; or by mail to City of Monterey, Harbormaster, City Hall, Monterey, CA 93940; or by email to both of the following addresses:

scheibla@ci.monterey.ca.us and togetti@ci.monterey.ca.us

- C. Should any discharge occur which violates the terms of this agreement, the ship will report where and when the discharge occurred, how much material was discharged and the circumstances of the discharge.

### III. INDEMNIFICATION

SHIP hereby agrees to hold CITY, its officers, agents and employees, harmless from any and all liability, suit, cause of action, or other claim or legal proceeding, including but not limited to any fines, clean-up charges or other liability, caused by SHIP's release of unacceptable discharges and/or contaminants within the MBNMS boundaries.

### IV. SHORE STAFFING

SHIP shall provide a sufficient number of crew members at or about the Fisherman's Wharf Visitor Dock, for passenger loading and unloading, to assure the comfort, safety and security of the passengers including those with physical disabilities.

### V. PASSENGER LANDING FEE

- A. SHIP agrees to pay the CITY a sum of five dollars (\$5.00) per passenger, per day.
- B. SHIP, or its designated agent, shall make payment before departure of SHIP, unless prior arrangements agreeable to the CITY have been made.

### VI. CONSEQUENCES

In addition to the indemnification provisions set forth in Section III above, it shall be understood that if SHIP violates this written agreement with the CITY, that the CITY will not welcome it and will withhold all CITY services for future visits of SHIP.

The undersigned are in agreement with nature and content of the responsibilities outlined in this Letter of Agreement.

City of Monterey

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Fred Meurer, City Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_

June 3, 2003



**BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT**

**ALAMEDA COUNTY**  
Roberta Cooper  
Scott Haggerty  
(Chairperson)  
Nate Miley  
Shelia Young

**CONTRA COSTA COUNTY**  
Mark DeSaulnier  
Mark Ross  
Gayle Ullikema  
(Secretary)

**MARIN COUNTY**  
Harold C. Brown, Jr.

**NAPA COUNTY**  
Brad Wagenknecht

**SAN FRANCISCO COUNTY**  
Willie Brown, Jr.  
Chris Daly  
Jake McGoldrick

**SAN MATEO COUNTY**  
Jerry Hill  
Marian Townsend  
(Vice-Chairperson)

**SANTA CLARA COUNTY**  
Liz Kniss  
Julia Miller  
Dena Mossar  
(Vacant)

**SOLANO COUNTY**  
John F. Silva

**SONOMA COUNTY**  
Tim Smith  
Pamela Toriatt

William C. Norton  
EXECUTIVE OFFICER/APCO

Supervisor Aaron Peskin, Chair  
Finance Committee  
San Francisco Board of Supervisors  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Subject: San Francisco Cruise Ship Terminal Lease

Dear Supervisor Peskin,

Bay Area Air Quality Management District (District) staff strongly urge you and your colleagues on the Finance Committee to reject the lease agreement for the San Francisco Cruise Ship Terminal between the Port of San Francisco and the developer, Lerd Lease, until the following conditions are included:

1. Require all cruise ships using the new cruise ship terminal to use California on-road diesel fuel or marine distillate when operating in San Francisco Bay.
2. Require all cruise ships using the new cruise ship terminal to hook-up to shoreside power built into the new terminal facility and designed to accommodate cruise ships.
3. Require the project proponent to contribute funds to the California Air Resources Board Ongoing Ship Demonstration Project, which is examining strategies to reduce ship emissions.
4. Require implementation of specific measures to reduce motor vehicle trips and emissions (from office and non-office uses), such as transit subsidies, parking fees, and discounts and other incentives for commercial customers not traveling by auto.
5. Require implementation of measures to improve safety for pedestrians and bicyclists on the Embarcadero. The City's response to our January 16, 2002 comments on the Draft Supplemental EIR states that, "the project sponsor has committed to" several measures such as pedestrian-controlled signals, traffic calming devices, warning signage, and cooperation with the Department of Parking and Traffic to ensure strict enforcement procedures, but these measures are not included in the required mitigation measures. These measures should be required as a condition of approval to assure implementation.

The District previously commented on the Draft Supplemental EIR for this project in a letter dated January 16, 2002. We continue to have concerns about the air quality impacts of the project. Environmental documents prepared for the project predict that it will cause air pollutant emissions that greatly exceed District significance thresholds for nitrogen oxides (NOx), reactive organic gases (ROG) and fine particulate matter (PM<sub>10</sub>). Ships will be the major sources of air pollutants, but motor vehicles (associated mainly with the project's commercial component) also represent a significant source. In addition to high levels of criteria pollutants, ships will also emit diesel particulate exhaust, which has been identified by the California Air Resources Board as a toxic air contaminant.

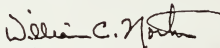
The lease and the certified environmental document before you do not require sufficient measures to reduce the significant air pollutant emissions generated by the cruise ships and motor vehicles traveling to the new cruise terminal. For the most part, the documents contain only nonspecific language calling for air quality working groups and incentive programs without any mandates, timelines or regulatory authority. The District strongly urges the City to require additional measures to mitigate air pollutant emissions from the project as part of the lease.

The Board of Supervisors made a commitment to seek stronger air quality mitigations for the Cruise Ship Terminal when it certified the Supplemental Environmental Impact Report after a public hearing where environmental, neighborhood, and public health advocates called for increased measures to reduce air quality impacts of the project. Since then, no such measures have been added to the lease.

The San Francisco Bay Area exceeds State and national health-based air quality standards for ozone (which is formed by ROG and NOx) and State standards for PM<sub>10</sub>. Diesel particulate exhaust also poses a health threat for Bay Area residents. Other western ports, such as Los Angeles, Long Beach, Seattle and Juneau are taking aggressive action to reduce ship emissions. We urge the City to require implementation of all feasible measures to reduce the air quality impacts of this project.

If you have any questions about this letter, please contact Henry Hilken, Principal Planner, at (415) 749-4542.

Sincerely,



William C. Norton

Executive Officer, Air Pollution Control Officer

Cc: Supervisor Gerardo Sandoval  
BAAQMD Director Jake McGoldrick  
BAAQMD Director Chris Daly  
BAAQMD Director Willie Brown, Jr.  
BAAQMD Deputy Director Maria Ayerdi



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## **LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Sasha Polonsky, Office of the Legislative Analyst  
DATE: June 30, 2003  
SUBJECT: Teacher Housing Initiatives (File No. 030313)

DOCUMENTS DEPT.

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### **SUMMARY OF REQUESTED ACTION**

A request submitted by Supervisors Ammiano, Ma and Maxwell asks that the Office of the Legislative Analyst, in consultation with the SFUSD, research and report on existing SFUSD teacher salaries compared with other school districts in California and national averages, adjusted to reflect the cost of living in the Bay Area. The Supervisors requested that the OLA further report on teacher housing initiatives, including housing subsidies, employed by other jurisdictions.

### **EXECUTIVE SUMMARY**

#### **Background and/or Issues in Brief**

The City of San Francisco's ability to educate its children depends heavily on the quality of its classroom teachers. Developing and maintaining a high quality labor force in the San Francisco Unified School District is a challenge, especially considering the high cost of living in the Bay Area. Research and public opinion polls continually report that a high quality teacher is the number one indicator of student achievement. In order to continue to attract and maintain the best teachers for SFUSD, the City should consider options to increase teacher incentives within the SFUSD system.

### **BACKGROUND**

#### **San Francisco Teacher Salaries**

##### *Credentialed Teachers*

Credentialed teachers in San Francisco are classified into three groups for purposes of salary schedule: I) teachers holding a BA degree, II) teachers holding a BA and an additional 30 units of coursework, and III) teachers holding a BA and an additional 60 units of coursework. Teachers who transfer from other districts are given credit for the number of years they have served outside of San Francisco as a credentialed teacher.



Salaries are eligible for increase according to the number of years as a credentialed teacher. (See Appendix Table I for detail).

### *Non-Credentialed Teachers*

Non-credentialed teachers in San Francisco are classified into the same three categories as credentialed teachers I) teachers holding a BA degree, II) teachers holding a BA degree and an additional 30 units of coursework, and III) teachers holding a BA degree and 60 units of coursework. Non-credentialed teachers are used primarily as interns or as emergency help for the school district. The salary schedule for these positions is not designed for permanent positions. (See Appendix Table II for detail).

### National Teacher Salaries

#### *National Averages*

In a fall 2002 report by the National Education Association, California ranked first for highest average salaries of public school teachers in 2001-02, with an average salary of \$53,870. This figure represented a 2.6% increase from the previous year, and launched California into the number one spot, ahead of Connecticut with a \$53,551 average (the previous front-runner) and New York with a \$53,081 average (number three in 2000-01 and 2001-02). Other top ten states included: Michigan (\$52,037), New Jersey (\$51,186), Pennsylvania (\$50,599), Illinois (\$50,000), Rhode Island (\$49,758), Alaska (\$49,418), and Massachusetts (\$49,054). (See Appendix Table III for detail).

#### *California Averages*

With approximately six million children enrolled in California public schools, recruiting and retaining the best possible teachers for the state is a critical issue. Given a teacher workforce of more than 300,000 statewide, it is also a tremendous challenge.

As a group, California's teachers are formally trained, state-certified professionals. In the 2000-01 school year, 86 percent of the state's classroom teachers were fully credentialed.<sup>1</sup> While the requirements continue to change over the years, in general, being "credentialed"<sup>2</sup> means that they:

- hold at least a bachelor's degree;
- have demonstrated their knowledge by passing the California Basic Educational Skills Test (CBEST) and satisfying subject matter requirements through coursework or evaluation; and
- have completed schooling or training that includes classroom practice, such as student teaching, as well as classwork in various state-required areas, such as reading instruction and the use of technology. (This can be included in a four-year bachelor's degree program, constitute a fifth year of schooling, or be completed concurrent with employment through an internship program).

<sup>1</sup> EdSource, Inc. report: "Teacher Pay in California: Is it Fair? Is it Competitive? Is it Enough?", April 2002

<sup>2</sup> EdSource, Inc. report: "Teacher Pay in California: Is it Fair? Is it Competitive? Is it Enough?", April 2002  
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### *Averages Can Be Misleading*

Teachers across the country are generally paid according to a uniform salary schedule established at the district level. This means that within each district, teachers with the same level of education and years of experience are paid the same salary. For example, all teachers with a bachelor's degree and one year of teaching experience receive the same amount. Similarly, all teachers with a master's degree and 20 years experience earn the same amount. With a uniform salary schedule, two different districts can have identical salary schedules – paying teachers the same amount at each education/experience step on the schedule – and have very different *average salaries*. For example, if District A has a disproportionately higher number of new teachers than does District B, the *average salary* paid by District A will be *lower* than that paid by District B, all other factors being equal. Often salary ranges provide a better picture of what teachers can earn. Nonetheless, these statistical biases must be taken into account.

### *Teacher Salaries in California are Highly Variable*

The best source of data from comparing teacher salaries within the state is the California Department of Education (CDE). Each year, school districts voluntarily submit salary and benefit information to the CDE. It is then compiled and made available to the public on the department's website. According to EdSource Inc.'s analysis of this data, California teachers beginning their careers in the 2000-01 school year earned \$33,193 on average. The most experienced teachers – those at the top of their district's pay scale – earned an average of \$63,484. As with other state averages, these statistics mask the degree of variation that exists within the state.<sup>3</sup>

The American Federation of Teachers publishes reports of minimum and maximum teacher salaries in various jurisdictions across the United States. In California, they broke out as follows:

**Table A. California Cities Ranked by  
Minimum and Maximum Salary, 2000-01<sup>4</sup>**

California District	BA Minimum	MA Maximum
San Francisco	\$37,607	\$58,187
Oakland	\$36,416	\$50,825
San Jose	\$35,665	\$52,593
San Diego	\$33,904	\$53,143
Sacramento	\$33,733	\$47,761
Los Angeles	\$32,569	\$45,166

### *Cost-of-Living Adjustments*

California's salary averages for teachers and other professionals appear to unilaterally surpass the national averages. However, the variability of costs across different geographical areas is a crucial consideration in drawing national comparisons. The American Federation of Teachers (AFT) uses an index to adjust the dollar value of each region to reflect the relative differences in the "buying power" of these dollars compared with the national average.

<sup>3</sup> EdSource, Inc., 2002

<sup>4</sup> Data from American Federation of Teachers, Survey & Analysis of Teacher Salary Trends 2001  
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Based on the adjusted salary comparisons across various US cities presented in the table below, teacher salaries in San Francisco weigh at the bottom of the national scale.

**Table B. A Cross-Section of National Salaries  
Adjusted by 2001 Cost-of-Living Index<sup>5</sup>**

City	MA Maximum (2001)	Cost-of-Living Index <sup>6</sup>	Adjusted MA Maximum
Pittsburgh, PA	\$66,380	105.1	\$63,159
Grand Rapids, MI	\$56,880	97.6	\$58,279
Dallas, TX	\$55,821	97.1	\$57,488
Miami, FL	\$59,275	106.7	\$55,553
St. Louis, MO	\$49,500	98.1	\$50,459
Portland, OR	\$51,365	103.3	\$49,724
New York, NY	\$65,865	139.6	\$47,181
San Diego, CA	\$53,143	126.3	\$42,077
Boston, MA	\$59,669	154.0	\$38,746
Oakland, CA	\$50,825	132.0	\$38,504
San Francisco, CA	\$58,187	179.8	\$32,362
Los Angeles, CA	\$45,166	140.0	\$32,261

Within the state of California, annual living expenses are reportedly highest in the Bay Area region. Data compiled by the California Budget Project in 2001 divided the state of California into 10 regions, estimating monthly and annual living expenses necessary to support a “modest standard of living” for various family configurations statewide for each region.<sup>7</sup> For example, statewide a two-parent family of four with one employed parent needed an annual income of \$36,245 in 2000 to pay for basic living expenses, such as housing (based on rental costs), utilities, transportation, food, health care, and taxes. In the San Francisco Bay Area, the same family needed \$42,304 annually, in contrast with \$30,811 necessary in areas of central California, \$35,207 in Los Angeles, and \$36,681 in San Diego. Considering that average beginning teacher salaries for the Bay Area region in 2000-01 were around \$34,000, the feasibility of supporting a “modest standard of living” in this region is virtually nonexistent.

### Existing Housing Initiatives

Several California jurisdictions have implemented programs to assist local teachers with down payment and mortgage assistance toward buying a new home. Such programs have been created in order to incentivize high quality district teachers to remain teaching in low performing schools.

### *State Funding*

#### Extra Credit Teacher Home Purchase Program

In September of 2000, the Extra Credit Teacher Home Purchase Program (ECTHPP) was created with an initial

<sup>5</sup> American Federation of Teachers, 2002

<sup>6</sup> National Average cost-of-living for 2001 is 108.1

<sup>7</sup> EdSource, Inc., 2002 and California Budget Project, 2001

allocation of \$64 million in tax-exempt bond authority. In January 2001, the California Debt Limitation Allocation Committee (CDLAC) approved a \$100 million allocation for the Extra Credit Program. The program helped eligible credentialed staff willing to serve in low performing schools to purchase a home.

The ECTHPP is now available throughout the state of California through the California Housing Finance Agency (CalHFA). Priority is given to eligible teachers and eligible administrators working in low performing schools with API Rankings 1, 2 and 3, and teachers are required to serve in the school for three years. Oakland, Los Angeles and Santa Clara are examples of districts that are utilizing this program; San Francisco has received funding in past years.

In addition to CalHFA's statewide program, the cities of Oakland, and Los Angeles have received an allocation of tax credits or mortgage revenue bonds from the California Debt Limitation Allocation Committee to be used to support a program to recruit and retain teachers and administrators agreeing to serve in low performing schools. Top priority for funding is given to programs that match the State awarded allocation with local homeownership assistance (such as assistance for down-payments and closing costs). Priority is also given to programs that indicate the highest need for recruitment and retention and most effectively utilize the allocation to retain and recruit qualified teachers and administrators.

Teachers can qualify for either a First Loan or Second Loan. Terms of the First Loan include a 30-year term, fixed below market rate loan amount to the maximum according to income. Terms of the Second Loan include a \$7,500 loan and forgivable interest from 5 percent to 0 percent. If the teacher or principal remains employed at a low performing school continuously for five years, the interest rate on the second loan will be reduced progressively to zero percent and remain there for the term of the loan.

#### CalHFA Housing Assistance Program

The CalHFA Housing Assistance Program (CHAP) is designed to provide up to 100% of the financing needs of prospective eligible first-time homebuyers. It generally consists of a standard 97% CalHFA fixed-rate 30-year mortgage (at CalHFA's published below-market interest rate at the time the loan is reserved) and a 3% CalHFA down payment assistance second mortgage, which is also called a "sleeping" second. Borrowers can use additional down payment funds; however, the total maximum loan(s)-to-value cannot exceed 100%. The CHAP loan is subordinate to a CalHFA first loan, making it a second mortgage. The second mortgage is offered for 30 years at 5% simple interest. All payments are deferred on this second mortgage until one of the following happens: the CalHFA first mortgage becomes due and payable; the first mortgage is paid in full or refinanced; or, the property is sold.<sup>8</sup>

The following criteria are required for constituents to qualify for a CalHFA loan<sup>9</sup>:

- Be a first-time homebuyer, which is defined as a person(s) who has not had an ownership interest in their primary residence during the previous three years. (Requirement is waived if property is located in a Federally designated "Targeted Area".)
- Have an annual household/family income that does not exceed income limits for the family size and county in which the home is located. Have sufficient funds available to meet the required downpayment - 3-5% plus closing costs. Some restrictions apply to gift funds. Property must be owner-occupied for the term of the loan or until sold. Meet credit, income and loan requirements of the CalHFA lender and the mortgage insurer.

<sup>8</sup> California Housing and Finance Agency, [www.calhfa.ca.gov](http://www.calhfa.ca.gov)

<sup>9</sup> California Housing and Finance Agency, [www.calhfa.ca.gov](http://www.calhfa.ca.gov)

- Be a citizen or other national of the United States or a qualified alien as defined by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

\* *Targeted Areas*: Census tracts in which 70% or more of the families have income, which is 80% or less of the statewide median family income.

### New State Legislation

Recently (May 7, 2003), Assembly Democrats in Sacramento called for earmarking \$1 billion next year to help working families buy a first home, find affordable apartments in tight rental markets and to encourage local governments to adopt smart growth practices. The \$1 billion package, which Assembly Democrats are incorporating into their budget in lieu of a housing bond, would help more than 21,000 Californians buy a first home and provide affordable rental housing for more than 19,000 other families statewide.

The plan earmarks \$265 million to help working families buy first homes, including assistance for teachers, support for "sweat equity" and self-help projects, grants to non-profit housing organization, and funds to allow the California Housing Finance Agency to provide low-interest loans and down payment assistance to low-income home buyers. The proposal also calls for setting aside \$425 million to build and restore affordable rental housing through the state's Multifamily Housing Program, and to provide tax credits to organizations that build rental homes for low-income residents. San Francisco's involvement is as yet undetermined.<sup>10</sup>

### *Other Programs: San Jose*

The City of San Jose implemented a program in April 1999 to help school teachers buy homes at a time when the city was experiencing a tight and competitive housing market. The Homebuyer Program allows San Jose public school teachers to apply for 100% financing of their first home in San Jose, up to \$240,000. Over the first 10 years of the loan, the buyer would pay only 80-85% of the first mortgage loan. In addition, the City provides a zero-interest, down-payment loan of up to three percent of the home's purchase price up to \$7,200. This loan would be repayable in 30 years. To take part in the Homebuyer Program, teachers must meet eligibility requirements, including household income limits. The program is designed for credentialed and emergency credentialed full-time teachers who teach grades K through 12 in San Jose.

Since the Homebuyer Program was established, more than 300 San Jose teachers have been able to take advantage of a wide range of housing assistance to buy their first homes. First homes can include single family detached homes, town homes, and condominiums. Mobile homes may be considered on an exception basis, subject to availability of special funds set aside for mobile home loans. The homebuyer's monthly housing costs cannot exceed the Affordable Housing Cost Limit (AHCL). Eligible teachers can receive up to \$40,000 in zero-interest down payment assistance through the San Jose Housing Department. A private lender can finance the remainder of the purchase price.

According to Korey Richardson at the San Jose Department of Housing (DOH), this program originated from the Mayor's office, and was created out of Redevelopment Agency (RDA) funds. The City provides short-term financing to developers that is converted into down payment assistance for homebuyers. Since its inception in 1999, a total of \$12 million from the RDA have funded over 300 transactions, including an investment of \$4 million for 2002-03 alone. As such, the Department is currently not accepting additional applications for this year. Funding for the teacher Homebuyer Program is derived from the following sources:

<sup>10</sup> California State Assembly Democratic Caucus, 5/7/03



### 20% Housing Funds<sup>11</sup> through San Jose DOH

The DOH relies on a number of sources to finance its activities. The main source of funding is the "20% Low- and Moderate-Income Housing Funds." As required by State law, 20% of the gross tax increment funds received by a Redevelopment Agency must be deposited into a Fund that assists in the preservation and production of affordable housing. Through a cooperative agreement with the Agency, the DOH is responsible for the administration of these funds. On average, the 20% Fund has provided the City with \$14 million annually for its affordable housing programs.

### Supplemental Redevelopment Agency Funding<sup>12</sup>

The Redevelopment Agency has agreed to provide the Housing Department with supplemental funding, over and above the 20% Funds required by law to be set aside for affordable housing.

In addition, Mr. Richardson referred to California Housing Finance Agency (CalHFA) loans funded through Proposition 46, a \$2.1 billion California housing bond issue to fund numerous housing programs, approved in November of 2002. Such loans provide deferred repayment loan assistance (3% simple interest) for 3% of the purchase price.

### ***Other Programs: Oakland***

The City of Oakland provides three programs offering assistance to credentialed teachers who teach at low-performing schools in the City of Oakland:

- The City's Down Payment Assistance Program for Public Safety Employees and Oakland Unified School District (OUSD) Teachers;
- Extra Credit Teacher Home Purchase Assistance Program (detailed above); and
- Mortgage Credit Certificate Program for Oakland Teachers through Alameda County.

The two latter programs can be combined with the Public Safety Employees & Teacher Down Payment Assistance Program.

### Down Payment Assistance for Public Safety Employees & Oakland Unified School District Teachers

This program provides a loan of up to \$10,000 in down payment and closing cost assistance, with a 10-year term with six percent interest. No payments or interest are due during the first five years; the remaining balance is due after 10 years, or when the home is sold or refinanced. This program is available to sworn Police and Fire service officers or trainees and full time OUSD teachers at or below 120% of median income levels. Property possibilities include single-family homes, condos, townhouses, live/work units and manufactured housing.

### Teacher Mortgage Credit Certificate (TMCC) Program for Oakland Teachers

TMCC recipients may take 20 percent of their annual mortgage interest payments as a dollar-for-dollar tax credit against their federal income taxes. The home buyer adjusts federal income tax withholdings, increasing income available to pay the mortgage. The borrower must be a first-time homebuyer and a teacher, administrator, nurse, counselor, or psychologist who holds the necessary credential for his/her position. The borrower also must be employed full-time in a low-performing school in the Oakland Unified School district

<sup>11</sup> San Jose Department of Housing

<sup>12</sup> San Jose Department of Housing



and commit to teaching at a low performing school for three continuous years from the close of the loan. Income limits are \$74,500 for one or two persons; \$85,675 for three persons. Property possibilities include single-family homes, mobile homes, condos, townhouses, or duplexes.

According to Christina Morales in the Oakland Department of Housing & Community Development, funding for mortgage revenue bonds derives from CDLAC. The City applied for funding in February of 2002, and had the programs up and running in one year. Currently, \$11.5 million is set aside for the TMCC and Extra Credit Home Teacher Purchase programs. According to the Department, there has not yet been much positive response to this program for four primary reasons:

- Teachers do not want to live in Oakland.
- Teachers do not want to live in areas where they teach.
- Teachers do not want to purchase a home that is below the standard to which they are accustomed through renting.
- School district administrators have been hesitant to encourage outreach to their teachers.

### *Other Programs: Los Angeles*

The City of Los Angeles offers two housing assistance programs to local teachers: a Mortgage Revenue Bond (MRB) program and the Extra Credit Teacher's Home Purchase Program (ECTHPP). Both programs are funded through an application for bond allocation with the California Treasurer's Office. This year, state funding for the two programs comprises a combined \$20 million, and is distributed on a first-come, first-served basis. In the past, there has not been great demand for the MRB program, according to Los Angeles Financial Development Officer George Guillen. As such, funding for the two programs has been combined to accommodate teacher demand, and funds for these two programs are exhausted each year through participating lenders.

#### Mortgage Revenue Bond (MRB) Program

The MRB program is state-funded by application with the state treasurer, and is available to credentialed and non-credentialed teachers as well as constituents of other occupations seeking first-time home-buying assistance. This program offers a three percent gift for the first loan amount, and a 5.25% interest rate.

Mr. Guillen additionally referred to state programs offered by the California Housing and Finance Agency (CalHFA). Many teachers and other Los Angeles constituents are eligible to participate in these state-funded programs, which often provide lower interest rates than the MRB or ECTHPP. According to Mr. Guillen, some California jurisdictions that do not offer programs like MRB or ECTHPP simply refer teachers to the CalHFA state programs. These state programs typically do not provide gifts for down payment assistance.

### *Other Programs: Santa Clara*

#### Housing Trust of Santa Clara County (HTSCC)

Santa Clara has taken a different approach to addressing housing for low-income employees, such as teachers, through a unique Trust which provides down payment assistance and low-cost rentals. The HTSCC is a public/private initiative spearheading the creation of more long-term affordable housing, first-time homebuyers and extremely low-income housing assistance in Santa Clara. Established through a consortium of institutions, the HTSCC was founded in 1997 by the Santa Clara County Board of Supervisors, Silicon Valley Manufacturing Group, Santa Clara County Collaborative on Housing and Homelessness, and Community

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Foundation Silicon Valley. The Trust has evolved into a broad-based working coalition of more than 70 public and private sector housing leaders, lenders, environmental organizations, and city and county officials who are either Board members or Housing Trust partners.

The initial goal of the HTSCC initiative has been to help nearly 5,000 low- to moderate-income individuals and families severely affected by the housing crisis. Among the individuals targeted are teachers.

The HTSCC fundraising campaign raised the initial \$20 million in 2001, and has become one of the largest and most successful community fundraising campaigns conducted in Silicon Valley. The initial \$20 million is expected to achieve the following objectives<sup>13</sup>:

- Provide first-time homebuyers assistance for 800 families.
- Create affordable rental housing for 3,000 Silicon Valley families.
- Provide incentive loans to build transitional and permanent housing for the homeless or persons at-risk of homelessness.
- Leverage over \$190 million in additional housing development funds through grants and loans to developers.
- Replenish itself as an ongoing funding source as first-time homebuyer and affordable rental home loans are repaid, and additional funding is secured.

### CONCLUSION/RECOMMENDATIONS

San Francisco is not currently funding any teacher incentive programs, according to the Mayor's Office of Housing (MOH). The city did receive funding from the California Debt Limit Allocation Committee (CDLAC) in 2001, but the state funding expired on December 31, 2002. That funding was used to support down payment assistance and below-market mortgage rates for participating teachers. The MOH has recently submitted an application for continued funding for the Extra Credit Teacher Home Purchase Program, which, if awarded, would begin in late June of 2003. This funding would provide low interest rates and down payment assistance in the form of a \$7,500 forgivable loan to eligible teachers and administrators in low performing schools.

Of further note, San Francisco attempted a San Francisco Teacher Housing Initiative in the recent past that was later rescinded. The San Francisco Board of Education resolved in May of 2000 to investigate development of approximately 50-100 units of housing on land owned by the District, to be made available for teachers. The motion authorized the expenditure of up to \$275,000 from developer fees for pre-development. This resolution was rescinded in October of 2000.

The Legislative Analyst recommends that the Board of Supervisors may want to consider a program for low-cost housing rentals modeled after Santa Clara's effort.

According to Korey Richardson at the San Jose DOH, San Francisco could benefit from using Redevelopment Agency (RDA) funds for first-mortgage assistance, and utilizing a bond measure only for down payment assistance. Mr. Richardson reports that in San Jose, the interest rates through RDA are very low, and thus effective for mortgage assistance. He advised that San Francisco, when considering a bond measure for down payment assistance, recognize that only if the bond measure is taxable can those funds be combined with RDA funds. Funds derived from a tax-exempt bond measure cannot be combined with RDA funds.

<sup>13</sup> Housing Trust of Santa Clara County, <http://www.housingtrustsec.org>

According to Mr. Guillen at the L.A. DOH, San Francisco might also consider referring constituents to CalHFA programs for home-buying assistance (detailed above). Interests rates for such state programs typically run approximately 4.25-5.25%, and are available to qualified individuals in California.

**APPENDIX****Table I. San Francisco Unified School District  
Credentialed Teachers: Salary Schedule for 2002-2003<sup>14</sup>**

<b>Classification Rating/Year Step</b>	<b>I BA</b>	<b>II BA + 30</b>	<b>III BA + 60</b>
2	\$40,310	\$40,841	\$41,902
3	\$40,841	\$41,371	\$42,432
4	\$41,371	\$41,902	\$42,962
5	\$41,902	\$42,432	\$44,359
6	\$42,432	\$42,962	\$46,530
7	\$42,962	\$43,493	\$48,700
8	\$43,493	\$44,174	\$50,872
9	\$44,023	\$45,929	\$53,042
10	\$44,554	\$47,685	\$55,213
11	\$45,084	\$49,442	\$57,384
12	\$45,919	\$51,197	\$59,554
13	\$47,540	\$52,953	\$59,554
14	\$49,161	NA	\$59,554
A=15-17	NA	NA	\$61,725
B=18-20	NA	NA	\$63,895
C=21-23	NA	NA	\$66,067
D=24-26	NA	NA	\$68,237
E=27	NA	NA	\$70,407

**Table II. San Francisco Unified School District  
Non-Credentialed Teachers (Emergency/Intern): Salary Schedule for 2002-2003<sup>15</sup>**

<b>Classification Rating/Year Step</b>	<b>I BA</b>	<b>II BA + 30</b>	<b>III BA + 60</b>
1	\$35,548	\$35,814	\$37,847
2	\$35,548	\$35,814	\$37,847
3	\$35,814	\$36,079	\$40,018
4	\$36,079	\$37,151	\$42,188
5	\$36,344	\$38,907	\$44,359
6	\$36,609	\$40,663	\$46,530

<sup>14</sup> Effective July 1, 2002; Salary based on K-12 184 day work year (Ed. Code 45203.1)<sup>15</sup> Effective July 1, 2002; Salary based on K-12 184 day work year (Ed. Code 45203.1)

**Table III. Highlights of the National Education Association's 2002 Report<sup>16</sup>**

Measure	2000-01	2001-02	% Change
Average Teacher Salary (\$)	43,339	44,499	+2.7
Public School Enrollment	46,961,031	47,416,002	+1.0
Number of Teachers	2,919,496	2,968,904	+1.7
Student-teacher ratio (not class size)	16.1	16.0	-0.7
Current expenditures per student	7,189	7,463	+3.8
Current expenditures (\$'000)	337,609,733	353,882,216	+4.8
Total Expenditures (\$'000)	392,796,393	413,011,822	+5.1
Total Revenue (\$'000)	386,996,922	403,797,308	+4.3

**Table IV. National Data Compare California's  
Average Teacher Salaries with Teachers Nationwide<sup>17</sup>**

Teachers (Public and Private)	California	United States
Kindergarten, except Special Education	\$43,860	\$40,230
Elementary School, except Special Education	\$46,720	\$41,980
Middle School, except Special Education and Vocational Education	\$47,350	\$41,890
Secondary, except Special Education and Vocational Education	\$50,200	\$43,030
<b>Comparable Occupations</b>		
Child, Family & School Social Workers	\$36,150	\$33,530
Preschool & Child Care Center/Program Educational Administrators	\$42,360	\$36,330
Editors	\$47,430	\$44,350
Social Community Service Managers	\$47,650	\$42,550
Librarians	\$48,600	\$42,730
Public Relations Specialists	\$50,280	\$43,700
Chemists	\$50,690	\$54,280
Accountants & Auditors	\$52,040	\$48,090
Historians	\$54,840	\$42,120
Registered Nurses	\$56,140	\$46,410
Mathematicians	\$74,980	\$67,770

<sup>16</sup> Data based on information from state departments of education; focused on public education system. Average salary constitutes the arithmetic mean of the salaries of the group described. That figure is the average gross salary before deductions for Social Security, retirement, health insurance, etc.

<sup>17</sup> Data from Bureau of Labor Statistics California and national, April 2002



## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Office of the Legislative Analyst (OLA)  
DATE: July 7, 2003  
SUBJECT: San Francisco's Flower Markets (File No. 021787)

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### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor Sandoval) requesting the OLA to survey other major cities to find out if they require flower-vending stands or other similar cash-based businesses to keep track of all sales and what equipment or system is used. The Sponsor's office previously requested the OLA to review the history of flower-vending stands in San Francisco, and estimate the total revenue generated by them for the City (see File No. 020316). 8/14/02

### EXECUTIVE SUMMARY

Compliance with tax laws in the United States relies heavily on self-assessments of what tax is owed. This is called voluntary compliance. This method of computing taxes eliminates the government's need for an army of tax accountants, but may also tempt owners of businesses to under-report their incomes and subsequent business tax liabilities. This is especially true of cash-based businesses.

The OLA conducted an expedited but thorough survey of other jurisdictions and discovered that there are few options for government agencies to promote taxpayer compliance and detect any underreporting by businesses. Specifically, our office contacted three cities in California (Berkeley, Los Angeles and San Diego) and the State Board of Equalization (BOE), which administers sales tax laws in California.

The elimination of the City's Gross Receipts Tax in 2001 also eliminated the City's ability to track gross receipts (income), as businesses are no longer required to report this information to the City Treasurer and Tax Collector. Nevertheless, if the primary objective of this request is to increase revenues for the City, the Board of Supervisors should urge the BOE to perform tax audits of San Francisco's flower-vending stands. Any sales taxes recovered as a result of these audits would increase revenues for local services. This option is described in more detail in the "Discussion" section of this report.



## BACKGROUND

All flower-vending stands must have a permit issued by the Department of Public Works (DPW) to operate in San Francisco.<sup>1</sup> Currently, there are 15 stands doing business in the City and County of San Francisco. Flower-vending stands must also register with the City Treasurer and Tax Collector to pay local business taxes. According to their office, all currently registered flower-vending stands qualify for the City's Small Business Tax Exemption and therefore do not pay business taxes.<sup>2</sup>

Moreover, all sellers of goods, wares and merchandise at wholesale and retail must obtain a State Seller's Permit issued by the BOE.<sup>3</sup> This applies to flower-vending stands too. In 2001, the Board of Equalization reported that there were 272 florists with seller permits operating in San Francisco.<sup>4</sup> Of these 272 florists, the BOE could not differentiate which are flower vending stands. Presumably, the 15 stands operating in San Francisco are included in the BOE's report.

## CURRENT LAW

In May 2001, the Mayor and the Board of Supervisors passed legislation repealing the City's gross receipts method of computing business taxes. This legislation was made retroactive to January 2000 with provisions to refund all taxes paid on the basis of gross receipts after such date. The City now computes business taxes based upon payroll expenses only. Furthermore, elimination of the Gross Receipts Tax also eliminated the City's ability to track gross receipts (income), as businesses are no longer required to report this information to the City Treasurer and Tax Collector.

## OTHER GOVERNMENT AGENCIES

### **A. State Board of Equalization (BOE)**

In general, retail sales of tangible personal property in California are subject to sales tax. The responsibility for paying the sales tax is upon the seller (retailer). Under State law, any person who evades the reporting, assessment or payment of sales taxes that would otherwise be due may be guilty of sales tax evasion. Violators are subject to fines and/or jail time. According to BOE staff, tax evasion decreases the revenue available to fund essential State and local services. These services include funds for police and fire departments, highway improvements, libraries, schools, parks, hospitals, courts and more. Plus, it may also hurt the honest business owners. When sales tax evasion is suspected, the BOE Investigations Unit responds and forwards the case to the appropriate BOE district office. The district office may then initiate a tax audit. Moreover, according to BOE staff, public awareness and involvement are essential in eliminating sales tax evasion. For this reason, the general public may report suspected sales tax evasion by contacting the BOE Investigations Division directly or its Tax Evasion Hotline.

<sup>1</sup> San Francisco Public Works Code, Article 5, Street Flower Markets, Section 159.

<sup>2</sup> To qualify for the Small Business Tax Exemption, a business's tax liability cannot exceed \$2,500.

<sup>3</sup> Revenue and Tax Code, Section 6066-6077.

<sup>4</sup> Taxable Sales in California (State & Use Tax), During 2001, Forty-First Annual Report, Page 9.

## OTHER JURISDICTIONS

### **A. City of Los Angeles**

In Los Angeles, most business taxes are based on gross receipts. Like state and federal income taxes, businesses are responsible for calculating their own tax liabilities. The city's Office of Finance periodically performs scheduled and unscheduled audits to detect any underreporting by registered businesses. In addition, the city's Whistleblower Program provides rewards for information resulting in the recovery of business taxes. The amount of the reward may not exceed 10% of the taxes, interest and penalties, which are recovered as a result of the information provided.

Interestingly, selling any goods wares or merchandise on public streets and sidewalks on foot or using a pack, stand or pushcart is illegal, according to the Tax and Permit Division. This applies to flower-vending stands too. Nevertheless, the Division does not enforce this law. It has authority to administer city tax laws only. Therefore, it is possible for a registered business to illegally sell flowers or other goods on streets and sidewalks, while legitimately paying business taxes.

### **B. City of San Diego**

Business taxes in San Diego are based on the number of employees (rather than gross receipts or payroll expenses). The annual fee is \$34 for a business with twelve or fewer employees and \$125 plus \$5 per employee for a business with thirteen or more employees. Businesses may calculate their own fees and remit a check or fees may be calculated by the city and a bill sent to them. If a business miscalculates its fees the city will issue a supplemental bill for the outstanding amount.

Furthermore, selling any goods, wares or merchandise on any sidewalk or curb is illegal in San Diego, as is the case in Los Angeles.<sup>5</sup> According to the City Treasurer's Office, sellers who sell from a fixed location must be on private property and possess a business tax certificate for the fixed location. Presumably, this applies to flower-vending stands too. However, a registered business may still illegally sell flowers on sidewalks, while legitimately paying business taxes, as the ban on selling on sidewalks is enforced by the Police Department, not the Treasurer's Office.

### **C. City of Berkeley**

In Berkeley, most business taxes are based on gross receipts or payroll expenses. However, flower-vending stands, of which there are 8 currently registered with the city's Department of Finance, are regulated under the city's Sidewalk Vending Ordinance.<sup>6</sup> They are charged a flat tax of \$240 plus \$5 per employee per year. They calculate their own tax liabilities, but the Finance Department periodically performs audits to detect inadvertent and deliberate inaccuracies.

<sup>5</sup> San Diego Municipal Code, Section 54.105.

<sup>6</sup> Berkeley Municipal Code, Chapter 9.48.

## DISCUSSION

If the primary objective of this request is to increase revenues for the City, the following are a few suggestions for your consideration.

- Urge the BOE to prioritize sales tax audits of San Francisco's flower-vending stands. Businesses are still required to report gross receipts to the State and any amount of sales taxes recovered as a result of these audits would increase revenues for local services. Furthermore, interpretations of the State's tax laws, which are obtained by businesses during the audit process, provide them with a basis for proper reporting of future sales tax liabilities.

*Of course the Board of Supervisors may require the City Treasurer and Tax Collector to perform business tax audits of flower-vending stands. However, according to that office, this approach would probably not be cost-effective because flower-vending stands are typically owner-operated and have relatively low payroll expenses, which the City uses to compute business taxes.*

- Amend Article 12A of the City's Business and Tax Regulations Code to compute business taxes on flower-vending stands based on a flat rate rather than on payroll expenses, as is the case in Berkeley. As previously noted, all currently registered flower-vending stands qualify for the City's Small Business Tax Exemption and therefore do not pay business taxes. This approach would certainly increase tax revenues, but may also require prior voter approval.

## CONCLUSION

The Legislative Analyst recommends that the Board of Supervisors urge the State Board of Equalization to audit San Francisco's flower-vending stands. If one assumes that flower-vending stands are generating more income in sales for which sales tax is not now being collected, the State and the City and County of San Francisco are not receiving their due share of sales tax revenues.



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## LEGISLATIVE ANALYST REPORT

TO: Honorable Jake McGoldrick  
FROM: Jonathan Werle, Office of the Legislative Analyst (OLA)  
DATE: September 30, 2003  
SUBJECT: **Serial Inebriates (File No. 030073)**

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### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor McGoldrick) requesting the Office of the Legislative Analyst to analyze the best practices of other local jurisdictions with regard to dealing with the problem of serial inebriation in public and evaluating the effectiveness of such programs in reducing the incidence of repeated public inebriation by the same persons. Request to consider the interagency program operated by the City of San Diego called the Serial Inebriate Program (SIP).

### EXECUTIVE SUMMARY

San Francisco has no clear policy regarding the criminal processing of individuals arrested multiple times for public drunkenness. Most of these "serial inebriates" go in and out of custody and hospitals multiple times without ever going through substance abuse or mental health treatment and rarely being criminally prosecuted. It is likely that a small number of individuals are costing the City a great deal of money through Police and Sheriff's Department time, paramedic costs, and Emergency Room costs.

The recent opening of the "sobering center" at the McMillian Center in San Francisco represents a move to address the problem of chronic public inebriation. The program hopes to cut into the costs faced by Emergency Rooms throughout the City by providing a safe space in which individuals can sober up. It also hopes to provide a way for habitual alcoholics to tap into longer-term treatment. The success of this program could have a great effect on the way San Francisco addresses this issue.

San Francisco is among many other jurisdictions that have lacked innovative policies for dealing with serial inebriates. Very few jurisdictions make a distinction between infrequent offenders and chronic abusers of city resources. San Diego's Serial Inebriate Program employs a unique approach to dealing with the latter group. In the past few years, SIP has shown the ability to successfully decrease the number of arrests for public drunkenness, pull some offenders off the streets, help them sober up and gain job and basic living skills, and decrease the costs that serial inebriates impose on the City.

Execution of a similar program in San Francisco would require a significant shift in policy. Specifically, it would require a more coercive approach to getting serial inebriates into treatment. While some within the City have expressed support for this kind of program, there may be a substantial movement against such action.

San Francisco may wish to consider one or more of the following options:

- *Monitor the success of the City's new sobering center*
- *Survey stakeholders regarding the introduction of a program similar to San Diego's Serial Inebriate Program*
- *Enforce new Police and Sheriff's Department procedures*

## **BACKGROUND**

### **"SERIAL INEBRIATES"**

San Francisco faces a problem that officials in San Diego have defined as a "revolving door syndrome" with the criminal processing of public inebriates. Many offenders arrested for public drunkenness go in and out of jails and emergency rooms, sometimes several times in a single day. Individuals who are brought through the system numerous times are considered "serial inebriates". These individuals are often receiving little or no treatment for the substance abuse or mental health problems from which they suffer.

### **IMPACT OF SERIAL INEBRIATES ON SAN FRANCISCO**

Public drunkenness has a substantial negative impact on the City and County of San Francisco:

- Serial inebriates have a negative impact on the image, cleanliness and safety of the city streets.
- Serial inebriates place a burden on the San Francisco Police Department. Time spent taking individuals into custody, booking, and/or waiting with inebriates in Emergency Rooms comes at a great cost to the Police Department. They can also be a physical danger to officers.
- Serial inebriates place a burden on the Sheriff's Department. Inebriates take up county jail space and medical staff oversee those with medical concerns.
- Serial inebriates place a burden on emergency rooms in San Francisco. Inebriates are often brought to emergency rooms if an officer fears medical complications while the individual sobers. The volume of inebriates being admitted to emergency rooms has created a well-documented ambulance diversion crisis. In addition, inebriates pose a physical threat to hospital staff, take up bed space, and monopolize doctors' time.

The monetary cost of serial inebriates to San Francisco is enormous. One well-publicized individual was estimated to cost the City \$1 million in a year. Though this is an extreme case, Lisa Frasier of the SFPD estimates that there are at least 30 individuals who have probably each cost the City \$500,000 in the last year.

### **EFFECTIVENESS OF INVOLUNTARY TREATMENT FOR SERIAL INEBRIATES**

Given the social impact and monetary cost of serial inebriates in San Francisco, a major policy issue is the effectiveness and appropriateness of coercing offenders to enter and remain in alcohol treatment.

There does not appear to be a consensus among researchers on this matter. Some researchers argue that little benefit can be derived when a serial inebriate is forced into treatment by the criminal justice system. Others oppose involuntary treatment on philosophical and constitutional grounds. Still others oppose it on clinical grounds, arguing that treatment can be effective only if the person is truly motivated to change. However, some researchers argue that few serial inebriates will enter and remain in treatment without some external motivation.



such as a suspended jail sentence, and that involuntary treatment is as justifiable as any other motivation for treatment entry.

Empirical studies surveyed by the Legislative Analyst largely support the use of coercive measures to increase the likelihood of a person's entering and remaining in treatment. For instance, of 11 published studies involving the relationship between coercive measures and treatment, five found a positive relationship between criminal justice referral and treatment outcomes, four reported no difference and two reported a negative relationship.<sup>1</sup> One of the five studies that showed a positive relationship between coercive measures and treatment outcomes found that alcoholics and drug dependent persons admitted into treatment directly from prison were more likely to complete treatment than other ex-prisoners since they faced the possibility of incarceration if they did not do so. Investigators in another study found that the weekly attendance rates of drivers who were convicted of driving under the influence and who were forced into treatment were significantly better than those of voluntary admissions.

The research literature on coercive measures to enter treatment has largely eclipsed the role of a person's internal motivation. However, there is strong support for the role of internal motivation as a predictor of the likelihood of a person's entering and remaining in treatment. For instance, researchers found that, while coercive measures played an important role in bringing alcoholics into treatment, a decline in perceived coercive measures over the following year was a significant predictor of abstinence a year later.<sup>2</sup> Likewise, other researchers concluded that a person's internal motivation for change at the time of admission into treatment significantly predicted positive treatment outcomes. Still another study found that among people who received outpatient alcohol treatment, internal motivation (as assessed by a questionnaire) was related positively to treatment participation and retention.<sup>3</sup> In addition, irrespective of whether they were forced into treatment, people with low internal motivation had the worst treatment outcomes. These studies suggest that coercive measures are not necessary to achieve good treatment outcomes.

Consequently, while external motivators such as a suspended jail sentence are often associated with positive treatment outcomes, the role of internal motivation should not be overlooked. They both play important roles in the treatment process.

### **CURRENT LAW AND PRACTICE**

*Penal Code Section 647(f), 849(b)(2), and 372*

- California Penal Code section 647(f) states that any individual who is intoxicated in public to the extent that s/he can not guarantee his/her own safety or the safety of others can be charged with a misdemeanor. Individuals charged under 647(f) are eligible for jail time.
- California Penal Code Section 849(b)(2) states that "any peace officer may release from custody...any person arrested without a warrant whenever...the person arrested was arrested for intoxication only". This provision allows the sheriff's department officials to release people arrested under 647(f) at any time. It is often enacted when the individual arrested has sobered up.

<sup>1</sup> UCLA Drug Abuse Research Center, The Effectiveness of Coerced Treatment for Drug-Abusing Offenders, Paper presented at the Office of National Drug Control Policy's Conference of Scholars and Policy Makers, Washington, D.C., March 23-25, 1998.

<sup>2</sup> Ibid.

<sup>3</sup> RAND, Does Involuntary Outpatient Treatment Work? Santa Monica, CA, 2001.



- California Penal Code Section 372 allows police officers to file a misdemeanor against anyone who “maintains or commits any public nuisance” if they have shown a pattern of that behavior. Public drunkenness can be considered a “public nuisance”.

Notably, State law also states any person convicted of using or being under the influence of any controlled substance (listed in Section 11550 of the Health and Safety Code) is guilty of a misdemeanor and must be sentenced to serve a term of not less than 90 days or more than one year in a county jail. A court may permit any person convicted under this law to complete a licensed drug rehabilitation program in lieu of part or all of his/her jail sentence. The Police Department advised the OLA that this law has helped to reduce the number of individuals who are arrested for being under the influence of a controlled substance while in public. Nevertheless, for the purposes of this analysis, we will consider only the matter of individuals who are arrested for being intoxicated while in public.

### *San Francisco Practice*

The San Francisco Police Department picks up many individuals for public drunkenness. Individual police officers determine how and if these individuals will be booked. There are a number of possible scenarios depending on the condition of the offender and the will of the arresting officer:

- Offenders can be sent home or to a homeless shelter and told to sober up.
- Offenders can be taken to county jails. In these cases, the arresting officer may arrest the individual under 647(f). However, officials at the jails usually release the individuals within 4 to 8 hours under Penal Code section 849(b)(2). In these cases the individual need not be taken before a magistrate. This effectively discharges the case.
- Offenders can be taken directly to an available Emergency Room if they are in a medical emergency or are in danger of further injuring themselves. In this case the offenders are often left in the custody of the hospital and then released when they are sober and/or safe.
- Upon arresting an individual a second time officers can book him/her under both 647(f) and 372 of the Penal Code. Individuals charged under section 372 can serve jail time and cannot be released under 849(b)(2).

The majority of public drunkenness cases end up in county jails or in Emergency Rooms for a short period of time. Very few officers use the option of booking under section 372. The result is that most of the offenders are in custody for no longer than 8 hours. According to Judith Garvey of the District Attorney’s office, most 647(f) arrestees are never referred to the District Attorney as the Police Department typically releases these individuals under section 849(b)(2).

### *Courts*

Ms. Garvey also reports that it is standard practice to refer most eligible 647(f) cases to San Francisco’s Community Court system. Some 647(f) arrestees do not have mailing addresses and therefore cannot be referred via correspondence to the Community Court system. After approximately four 647(f) arrests of an individual who does not have a mailing address but is in custody, the District Attorney will file and serve a criminal complaint against him/her. Moreover, 647(f) cases are often bundled with other charges such as creating a nuisance or illegal camping.

Thom Bateman of California Community Dispute Services reports that very few offenders referred for 647(f) ever show up at their hearings. Furthermore, the Community Courts require a permanent address and a majority of 647(f) offenders have none.

### *San Francisco's New Sobering Center at the McMillan Center*

In the recent weeks, San Francisco has opened up a new sobering center at the McMillan Center, a drop-in center for substance abusers for individuals arrested on public drunkenness charges. The goal of the center is to lessen the burden that serial inebriates place on hospital emergency rooms while providing optional treatment. Eventually, the center will receive inebriated individuals directly from the police. These individuals will have an opportunity to sober up and can meet with case managers to discuss possible substance abuse and mental health treatment. All treatments and services are completely voluntary.

## **POLICY ANALYSIS/ISSUES ANALYSIS**

### **OTHER JURISDICTIONS**

Most jurisdictions have little or no policy specific to serial inebriates. Los Angeles, Oakland, San Mateo, and New York City all follow arrest and custody procedures very similar to those in San Francisco. In general, these jurisdictions will pick up offenders under 647(f), will then release them when sober under 849(b)(2), and have no specific treatment paths for serial inebriates.

The following jurisdictions either have a different approach to arrest and custody or are attempting to address the problems posed by serial inebriates in different areas:

#### *Seattle and Oakland*

The cities of Seattle and Oakland have attempted to address public drunkenness by making it difficult for inebriates to access the alcohol that they want, when and where they want it. Both cities have tried to curb the sale of "problem" alcoholic products such as 40 ounce bottles of malt liquor and fortified wines through agreements with liquor store owners in certain neighborhoods. David Sylvester of the Seattle Police Department reports that there has been some success in "cleaning up" certain neighborhoods. However, there is little to suggest that it is solving the problem of public drunkenness throughout the city. This type of program may successfully eliminate the problem in certain areas but does little to curb the problems caused by serial inebriates as a whole. Furthermore, Sylvester reports there was considerable resistance from storeowners upset about potential loss of income.

#### *San Diego's Serial Inebriate Program*

In 2000 police, judges, homeless and alcoholism advocates and service providers in San Diego introduced the Serial Inebriate Program (SIP). SIP is an alternative to the traditional criminal processing of serial inebriates in San Diego, which prior to 2002 followed procedures similar to San Francisco. The program is aimed at addressing the problems that arise for the City and for individuals who are repeatedly arrested for public drunkenness. Collaboration between the Police Department, the District Attorney's office, the Sheriff's Department, and many non-profit organizations has been key to the early success of the program. The initial organizers of this program reported little resistance in the early going because of the inclusion of as many stakeholders as possible in the early planning and grant writing period. John Thelen from San Diego's Regional

Task Force on Homelessness reports that the majority of non-profits that have interest in the welfare of homeless individuals and inebriates are in favor of SIP.

SIP officials report some difficulties in getting the program off the ground:

- Officials had to find enough funding to start the program. This came in the form of a grant from Tobacco Settlement money and through County support (including jail space).
- The Sheriff's Department had to be convinced to support the program even though it meant that they would have to hold inebriates for much more time than they were accustomed to.
- Coordination between different departments, between City and County, and between non-profit and government had to be ironed out.
- Judges, Police, the Sheriff's Department, and other involved parties had to be educated regarding options and procedures.

SIP was created based on a study that showed just a handful of serial inebriates costing a huge amount to the City of San Diego. The goal of SIP is to send those individuals that most abuse the City services through treatment and to get them off of the streets.

Individuals in San Diego that are picked up for public drunkenness (P.C. Sec. 647(f)) are brought to an Inebriate Reception Center (IRC) to sober up. IRC staff identifies individuals that use the center four or more times in a month as a chronic abuser of the facility or a "serial inebriate". Most offenders are released from the detox center after sobering up. However, serial inebriates are rejected by the IRC and returned to the custody of the police who transfer them to County Jail. If the offender can not post bail, they are held until arraignment.

At the heart of SIP is an option for serial inebriates to seek treatment for alcoholism and/or mental health problems. Offenders who can't post bail are held until they go to court. If they are found guilty of public drunkenness, the offender is given an option of serving a jail sentence or being placed in treatment (in or out patient depending on the case). If they opt out of treatment, the individual must serve a time in jail. The jail sentence, allowable under 647, was introduced with the program, and was not part of San Diego's policy and procedure prior to SIP. Future arrests will yield longer jail sentences (up to 180 days), but an option for treatment is always offered.

If an individual chooses to be placed in treatment, s/he will have a police escort to a partner treatment center. The individual is then expected to stick with the treatment to completion. If someone drops out of treatment, they are picked up by police to serve out the jail sentence that they had previously opted out of.

### *Results of SIP*

San Diego officials report successes in the Serial Inebriate Program for both participants and for the City as a whole. Of 142 people who accessed the program during the first five quarters of its implementation, 75 or 53% were accepted into treatment. Of those, 59% (39 of 75) completed the Pre-Treatment Stabilization program and 23% (15 of 75) completed a six-month formal treatment program.<sup>4</sup> A "graduate" has completed at least six

<sup>4</sup> Deni McLagan, Program Director for Mid Coast Regional Recovery Center, advised the OLA that completion rates for formal treatment decreased since the pilot year of the program because length of treatment was increased from 30 days to six months. Formal treatment stays were increased in an effort to provide clients with a greater chance of success, to provide lengthier housing stays, and add a vocational component. As a result, there was an increase in ongoing post treatment sobriety.

months of treatment, has taken part in a 12-step program, has had a minimum of 120 days of sobriety, and is either working or involved in a vocational training program.

Officials with SIP stress that success cannot necessarily be measured by the number of individuals completing the program. There are many who do not finish the entire six months, but who reach significant milestones on the way. In 2001, 63% of clients accepted into treatment completed an initial 10-Day Detox program. In addition, SIP officials report that graduates are overwhelmingly positive about the program and many are participating in running different aspects of SIP. Some graduates credit the program with saving their lives.

While the success of the program is difficult to measure in terms of lives saved, the money saved by the program is significant. Deni McLagan, Program Director for Mid Coast Regional Recovery Center, states that an average serial inebriate was estimated to cost the City \$187,000 per year. A group of 227 inebriates were tracked and found to have run up more than \$5 million dollars in uncompensated medical care alone over two and a half years. By comparison, SIP has an annual cost of \$190,000 for the entire program<sup>5</sup> and has already shown to reduce the number of chronic public inebriate arrests in San Diego.

### *Application of the Serial Inebriate Program Model in San Francisco*

Under current practice in San Francisco, most serial inebriates flow in and out of custody and medical treatment. Little is being done to keep them from returning to the system repeatedly. The program in San Diego has shown an ability to lower the number of serial inebriates that travel through the system and, in doing so, lower costs. However, the Serial Inebriate Program is still in its early stages. Long term effects of the program are not yet known. San Francisco may wish to collect more data over time in order to determine longer-term results.

As in San Francisco, San Diego did not have enough voluntary alcohol or mental health treatment facilities prior to introducing SIP and SIP has not increased the amount of treatment programs. Proponents of SIP would argue that the program has helped to fast track "high-utilizers" of City resources into treatment programs, identifying the neediest. However, San Diego officials stress the importance of free will and say that they only send individuals to treatment that express a sincere desire to enter treatment. They acknowledge that it will not work if the individual does not want to be there. If this is the case, it is possible that the success of the San Diego program will diminish as the neediest and most willing to receive treatment are removed from the streets.

As a model, the Serial Inebriate Program is technically applicable in San Francisco. However, there would be a great deal of resistance from a number of sources. Homeless advocates in San Diego were by and large in support of SIP. Advocates saw the chronic inebriate as primarily a substance abuser making this an addiction issue rather than a homeless problem. It was recognized that alcoholism is a disease that incapacitates the user and makes problem solving by him/her difficult, if not impossible. However, San Francisco's homeless advocacy community may not be as supportive of a similar program here. San Francisco could expect resistance on the grounds that the City is not currently offering enough voluntary treatment, that increased jail time for public drunkenness is "cruel and unusual", and that the coercive nature of getting people into treatment is harsh and ineffective. San Diego was able to avoid this by including all stake holders in the planning process. This would be a very difficult task in a city such as San Francisco with a history of friction between homeless advocates and City departments.

<sup>5</sup> Excluding start up costs. A \$400,000 grant was used to begin the program.

Furthermore, as happened in San Diego, San Francisco's Public Defender has indicated that he will not support any increased jail time for public drunkenness offenders. San Diego's Public Defender eventually supported the program, according to SIP officials, after he saw the positive results of the program and realized that he was acting in the best interest of his clients. There is no guarantee that the same would happen in San Francisco.

One approach to avoiding the issue of additional jail time would be to provide a pre-trial diversion option, offering treatment as an alternative to arraignment. The San Francisco Pre-Trial Diversion Project currently offers such services to people facing arraignment on a number of different charges, including public drunkenness and related charges. The treatments available are not always as rigorous or thorough as those in San Diego's SIP program and the requirements are not as strict, but the Project reports a significant success rate for people referred for misdemeanor charges. Currently, the program is saturated with cases and lacks resources to handle many additional referrals.

SIP officials believe that jail time is key to the success of the program because it provides the right incentive for individuals to seek treatment. They argue that in some cases it has taken a number of days of sobriety for an individual to "realize" that s/he is ready to seek treatment.

### OPTIONS

There are a number of feasible approaches to the serial inebriate problem that San Francisco could consider:

- *Monitor the success of the City's new sobering center.* If voluntary treatment is being utilized and showing success and if money is being saved through reduced Emergency Room costs, the City may wish to expand and duplicate this program.
- *Survey stakeholders regarding the introduction of a program similar to San Diego's Serial Inebriate Program.* Research has shown that many City officials have indicated an interest and are willing to consider such a program. Determine whether and under what conditions homeless advocates, the Public Defender, and other non-City stakeholders would support such a program.
- *Enforce new Police and Sheriff's Department procedures.* The bulk of 647(f) arrests are booked and released under Penal Code section 849(b)(2). If Police began tracking the arrest records of serial inebriates they could begin booking them for other charges, including public nuisance (372), which requires a proven pattern of behavior. Offenders held in custody under 372 are ineligible for 849(b)(2) releases. Furthermore, use of 849(b)(2) is based on the judgement of jail supervisors from the Sheriff's Department. They could begin following a policy of non-release for public drunkenness offenders who have been arrested for the fourth or fifth time without violating the word or spirit of the Penal Code. Both of these changes in policy would lead to more serial inebriates being tracked for arraignment. These cases could then be given the option of Pre-Trial Diversion.





## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Willow Schrage, Office of the Legislative Analyst  
DATE: September 5, 2003  
SUBJECT: Police Facilitation of Mass Protests (File No. 030635)

DOCUMENTS DEPT.

SEP - 9 2003

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### SUMMARY OF REQUESTED ACTION

A motion (introduced by Supervisor Hall) requesting the Office of Legislative Analyst (OLA) to compare and contrast the laws, regulations and policies of San Francisco, Seattle and New York City for facilitating mass protests.

### EXECUTIVE SUMMARY

In most areas the San Francisco Police Department (SFPD) appears to have similar policies and procedures as both the Seattle Police Department (SPD) and the New York Police Department (NYPD). First, the general principles guiding police response to citizen unrest in all three cities are nearly identical. Police departments in all three cities strive to ensure that First Amendment rights are protected, that police involvement will be only as extensive and necessary to protect citizens and the community, and the needs of law enforcement. Second, the appropriate ratio of police officers to protesters does not have a straightforward answer, and neither Seattle nor New York uses any type of formula. In this regard it does not appear that either of these cities has a superior policy than that in San Francisco. Third, with respect to crowd control, the SFPD may want to investigate New York's use of "pens" to contain demonstrators and Seattle's use of "force multipliers" (trained volunteers used to multiply the police force) to determine if they are appropriate for San Francisco. Fourth, if San Francisco wishes to prosecute a greater number of arrested demonstrators, using some of the New York's tactics for recording complete and accurate information at the time of arrest may help, such as immediate consultation from a supervisor and legal council. Notably, all three cities tend to drop charges against most demonstrators. Lastly, SFPD has received considerable scrutiny over the high costs of the anti-war demonstrations. However, given the size of the San Francisco protests, the extent of the unrest, and the number of arrests, it appears that San Francisco's costs are in line with those of Seattle and New York. Neither Seattle nor New York appears to have any policy or procedure that leads to a reduction in police department costs.

### FACILITATION OF MASS PROTESTS

#### Overview of General Policies

The anti-war demonstrations in San Francisco during March 2003, led to the arrest of more than 2,300 protesters. In the aftermath of the demonstrations, several Supervisors raised concerns over the procedures used to facilitate the protests as well as the costs incurred by the City, particularly due to the expense of police



overtime. This report will compare the policies of the San Francisco Police Department (SFPD) with the jurisdictions of Seattle and New York City in order to ascertain any potential improvements to the current SFPD policies for facilitating mass protests.

The general principles guiding police response to citizen unrest are nearly identical for the police departments of San Francisco, New York City, and Seattle. All three state that it is the policy of the police department to ensure that First Amendment rights are protected, that police involvement will be only as extensive and necessary to protect citizens and the community, and the needs of law enforcement.

New York Police Department (NYPD) officials stressed that they are bound to impartially protect First Amendment rights, but that these rights apply not only to the protesters. The Department acts to protect the rights of everyone affected, including pedestrians and businesses. Therefore, officers attempt to balance the rights of demonstrators with the rights of average citizens. For example, during anti-war demonstrations that occurred in New York on March 15<sup>th</sup>, First, Second and Third Avenue businesses suffered due to the curtailment of commerce once protesters took over the streets. At the next scheduled rally, police ensured that the sidewalks were kept clear, which allowed businesses to remain open. San Francisco follows similar procedures.

### **Ratio of Officers to Protesters**

Some questions have arisen at Board of Supervisors meetings as to whether too many officers were used during the anti-war demonstrations, and whether the same security and crowd control could have been achieved with fewer officers and thus less overtime expense. The ratio of the number of officers to protesters is both a policy and a fiscal issue. Too many police officers can intimidate a crowd and create a chilling effect on protesters. There is no documentation to suggest that this happened during the March protests. However, the greatest expense San Francisco incurred as a result of the anti-war demonstrations was from the accrual of hundreds of overtime hours by police officers. In fact, SFPD overtime costs as of April 16, 2003, totaled \$2,068,531.<sup>1</sup> This number demonstrates the importance of not overstaffing mass protests, while at the same time ensuring that sufficient law enforcement is available.

However, the appropriate ratio of police officers to protesters is not a question with an easy answer. The San Francisco Police Manual on Crowd Control states that "What is needed is an adequate ratio of officers of different ranks all the way up the supervisory ladder. In extremely volatile circumstances it may be necessary to assign one sergeant to each four officers and one lieutenant to each four sergeants, etc."<sup>2</sup>

The following example from NYC shows that there are no set formulas for determining the ratio of officers to demonstrators. The number of officers depends entirely on what is expected at the event. Organizers of the first anti-war demonstration in New York City anticipated 50,000 to 60,000 participants. The actual turnout was closer to 120,000. There were 5,000 to 7,000 police officers there to handle the crowd. The second demonstration drew over 100,000 demonstrators, but only 1,500 officers were used. The significant difference in the ratio of protesters to officers was possible because the organizers of the protest promised that the demonstrators would be cooperative. Similar logic is used for non-protest activities: when the Philharmonic played in Central Park, there were approximately 30,000 spectators and 60 officers (a ratio of 500:1); when

<sup>1</sup> Memo from Alex E. Fagan, Acting Chief of Police to Gloria L. Young, Clerk of the Board. Reference #20030325-041. These costs do not include the expense of on-duty police officers detailed to the events, nor does it include deferred costs of officers who have chosen to take compensatory time in-lieu of overtime pay.

<sup>2</sup> San Francisco Police Department, Crowd Control Manual, p. 8-9.

Garth Brooks performed there were 100,000 fans and 1,000 police officers (a ratio of 100:1); during the New Year's Eve celebrations in Times Square, there are approximately 100,000 people in the streets and 4,000 to 5,000 police (a ratio of 20:1).

The Seattle Police Department agrees that there is no scientific formula. Officials at the SPD explain that it depends on the type of event, time of day, day of week, type of crowd or audience expected, the history of the organizers, whether or not alcohol is allowed, and a myriad of other issues that determine how many officers they will use.

### Methods of Crowd Control

There has been little criticism in the press, by the Board of Supervisors or the general public regarding the crowd control measures employed by the SFPD. The SFPD is not known to have used excessive violence, nor violated First Amendment rights when exercised legally. Policies of the Department for management of lawful assemblies include: identifying and meeting with organizers in the days before the assembly is to occur; collecting and evaluating flyers and other types of information gathered about the event; ascertaining past behavior of the specific group involved, to the extent permitted by Department intelligence policies; and establishing contact with the crowd early. If the gathering portends unlawful behavior or violence, the police will plan for crowd control measures including: isolating the crowd; showing a display of police officers; making selective arrests; making multiple arrests; giving orders to disperse; ensuring crowd dispersal.

The NYPD employs similar tactics, although they use the strategy of penning demonstrators. At all events with large crowds, the Department makes barrier pens. Their rationale is that doing so allows officers to patrol the inside of the crowd, facilitates easy movement of ambulances and fire trucks through the area, and allows the police to monitor the conduct of the crowd more closely. During the recent anti-war demonstrations in New York, the process occurred as follows: pens were set up in midtown from 50<sup>th</sup> Street northward. As the pens at 50<sup>th</sup> and 51<sup>st</sup> Streets filled, protesters were directed to the 54<sup>th</sup> Street pen. The pens are fed from side streets and as they fill people are directed to pens further north.

Seattle uses techniques more similar to San Francisco, and chooses not to pen demonstrators. Seattle officers agree that creating an outside perimeter to certain gatherings allows officers to search participants' bags, which helps with crowd management. When there are big parade routes, the SPD places as many officers as they can along the route. They also use "force multipliers," which are trained volunteers used to multiply the police force. Force multipliers typically supervise bag searches, according to SFD officials. Seattle reports that their most effective strategy is to work with the organizers of an event, and to get the word out early to the public about what is going to be tolerated and what is not. Seattle also believes strongly in learning from the experiences of other cities.

Notably, the SFPD experimented with "pens" at Union Square on New Years Eve 1999. It was the first time pens were used in San Francisco and they were ineffective, according to SFPD staff. New Years revelers did not want to stay in fixed locations and would move between pens or cause problems such as vandalism just outside of the penned areas. Moreover, the Department regularly uses "monitors" (similar to force multipliers) for parades and some protests to assist with crowd control. SFPD staff advised the OLA that monitors are typically volunteers associated with a particular event or organization. They are not police volunteers, as is the case in Seattle. If the City chooses to use police volunteers, they would inevitably need to be trained in crowd control strategies. This would be an additional cost to the City. According to SFPD staff, another factor to keep in

mind is the possibility that monitors would not show up to unscheduled and even scheduled events, in which case the Department's ability to manage those events would be negatively impacted.

### Process for Mass Arrests

In April 2003, at least one Supervisor voiced apprehension about the possibility that a number of citizens were falsely arrested since they were not breaking the law.<sup>3</sup> Several individuals who were arrested claimed that they were simply observers or just passing by, and that the crowd received no order to disperse. Without debating the validity of these claims, it is clear that procedural and fiscal concerns surrounding mass protests converge when considering the possibility of false arrests. False arrests can ultimately end up being costly to the City, given that in previous cases protesters have successfully sued the City under such circumstances. For example, in 1998 a group of 374 people won a settlement of \$1 million after protests surrounding the acquittal of four Los Angeles police officers in the beating of Rodney King. In 1996, the City lost 34 small claims judgments of \$1,000 each for false arrests during a Critical Mass protest. Ensuring that the SFPD is using the best practices available to avoid false arrests will not only protect the civil rights of San Franciscans, but also save the City money.

Official procedure for multiple arrests by the SFPD are as follows: "A specialized group of officers working together during large-scale arrests at major public events will be responsible for all aspects of the arrest process from the point of arrest to the delivery of prisoners to the Sheriff's Department. In that way, the chain of identification is not broken, and officers managing the event will not be taken from 'the line,' weakening it." These specialized arrest groups consist of several personnel: an arrest group leader; two (or more) officer arrest teams; two photographers; a booking recordation officer; one or more two-officer transportation teams; one or more receiving officers at the County Jail or other booking area.<sup>4</sup> Arrest teams are instructed to make arrests only "for specific violations of the law."<sup>5</sup>

Once a civilian is arrested, two Polaroid photos are taken of the detainee. One photograph is given to the transporting unit, and the other is kept by the arresting officer who is designated to complete the police incident report.<sup>6</sup> The arresting officer must sign the photograph with his or her name and star number in order to ensure accurate information can be provided to the District Attorney's Office.

During the anti-war demonstrations in New York, the NYPD also used mass arrests. The first major protest resulted in over 200 people arrested. The second major protest, despite being more peaceful overall, also resulted in mass arrests. Demonstrators marched to Washington Square Park, and since no rally was scheduled after the march, most of the demonstrators dispersed. However, some protesters described by the NYPD as "radicals and anarchists," did not leave the scene and eventually between 130 and 150 of them were arrested.

NYPD's policy is to make immediate arrests upon any violation of the law. As the Head of the Disorder Control Unit explained, "We don't tolerate any lawlessness. We don't back off. We used to allow demonstrators to blow off some steam, but in Crown Heights [in 1991] that got out of control and led to two days of riots, and the police were really criticized. So now we don't tolerate any lawlessness or let the crowd get too unwieldy so that pedestrians can't get through."

<sup>3</sup> Rachel Gordon, "Police Defend Tactics, Expense for Protests," San Francisco Chronicle. Friday, April 11, 2003.

<sup>4</sup> San Francisco Police Department, Crowd Control Manual, p. 36.

<sup>5</sup> Ibid., 37.

<sup>6</sup> San Francisco Police Department, Crowd Control Manual, p. 38-9. See Appendix A for Incident Report Checklist.  
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During arrest processing in mass arrest situations, the NYPD makes sure that an arrestee accompanies the arresting officer to a mobile facility for verification. The mobile facility is in a central location but away from the main area of unrest. Each arrest must be verified by a supervisor as well as a representative from a legal team. This prevents situations in which the validity of the arrest could be called into question. The representative from the legal team must verify the legality of the arrest, which helps minimize circumstances arising after an arrest in which the arresting officer reveals that he or she did not actually see any violation of the law occur, but was instructed to make the arrest by a captain, or any other situation that could lead to accusations of false arrest or insufficient evidence for prosecution. At the mobile facility, arrested protesters are consolidated into paddy wagons that fit 20 to 30 people and taken to a station for booking.

The Seattle Police Department will make an arrest whenever an officer observes behavior that will put another person in danger. The recent anti-war demonstrations in Seattle did not lead to mass arrests. Seattle has not employed mass arrests since the 1999 protests surrounding the meeting of the World Trade Organization. During those protests approximately 600 arrests were made over the course of 4 days.<sup>7</sup> The SPD stresses that a police department cannot anticipate if it will need to use mass arrests, and it should always be kept as an option. However, the SPD believes that it is usually more effective tactically to focus law enforcement efforts on particular individuals who may lead others into criminal misbehavior. While mass arrests are time-consuming and overwhelm the system, securing the arrests of a few protest leaders can be very effective at quelling a protest.

In the recent demonstrations, the SPD encountered few problems with the large permitted marches. One of the largest protests drew 18,000 or 19,000 participants (organizers predicted 25,000), and only one arrest was made, of a man who began to graffiti property. The SPD had plain-clothed officers on the perimeter and uniformed officers infiltrating the crowd, and there was little to no lawbreaking.

Like New York and San Francisco, the Seattle Police Department uses prisoner processing teams commanded by a Lieutenant. These are broken down into five or six smaller teams, each headed by a Sergeant. Each person in the team has a responsibility to record and process arrests. The arresting officer must accurately identify the crime violation at the time of arrest by writing a short note, and give it to the processing officer who records the information on a generic booking form, takes a photo, and directs the arrestee onto a bus. After the demonstration is over, the officer who first made the arrest reports to the station and completes a supplemental statement detailing "everything he saw and heard." The SPD admits that they did not implement this process well during the 1999 WTO protests, but believes that they now use the process effectively. However, the process is very labor intensive, according to SPD officials.

## Prosecution

Misdemeanor charges against nearly all of the 2,300 individuals arrested during the anti-war protests in San Francisco were first reduced to infractions and then dropped altogether. The rationale for this was based primarily on the fact that prosecution of all 2,300 threatened to overwhelm the court system. In addition, prosecution would require expensive jury trials with court-appointed defense attorneys, and San Francisco does not have a history of winning such cases. In approximately 25 cases that involved vandalism and violence, police were able to identify the suspects and their crimes. These individuals were charged and sent to trial. Notably, approximately 150 cases were dismissed because of inadequate police reports. The District Attorney's Office reported that police had difficulty trying to clear the streets and simultaneously gather proper

<sup>7</sup> In San Francisco, over 600 people were arrested in 30 minutes during demonstrations on March 21<sup>st</sup>.  
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documentation and evidence necessary for prosecution: "Just prior to a hearing in late June, the police notified us that the infractions could not be 'substantiated by the incident reports or independent recollection.' Specifically, the police said they were unable to identify exactly where individuals had been arrested."<sup>8</sup>

If San Francisco wishes to prosecute a greater number of arrested demonstrators, using some of the NYPD's tactics for recording complete and accurate information at the time of arrest may help, such as immediate consultation from a supervisor and legal council, and having the arresting officer accompany the arrestee to the processing station. However, such tactics would mean that the arresting officer would have to leave the line of duty, which current SFPD procedures explicitly try to prevent. In addition, even in New York, few demonstrators are prosecuted, although this is usually for political rather than procedural reasons. The NYPD reports that almost all arrests from protests are summarily dismissed, even if the defendant is pleading no contest, simply because New York is a liberal city and judges will not support the arrests. The Assistant Chief of the Seattle Police Department described a similar climate in Seattle. SPD officials stated, "It is sometimes a political decision about whether to go forward and prosecute protesters or not."

### **Cost Estimates**

The overtime costs incurred by the San Francisco Police Department as of March 16, 2003 totaled \$2,068,531. An additional \$62,995 was spent on materials and supplies, \$3,900 on the mass arrest facility, \$1,919 on portable toilets, sinks, and heaters, and \$32,105 on food for on-duty officers.

The NYPD reports that overtime expenses for the Department were approximately \$5 million for the first protest on March 15<sup>th</sup>, and \$2 million for the second protest on March 21<sup>st</sup>. These expenses are for overtime pay to police officers only, and do not include regular salary costs, expenses due to lawsuits, or any other costs resulting from the demonstrations. Each arrest made by the NYPD cost the Department approximately \$5,000 in legal fees.

The anti-war demonstrations cost Seattle \$1.3 million strictly in police overtime, not counting meals, booking fees, or court expenses.

The above numbers are of particular interest in light of the intense scrutiny the San Francisco Police Department has received over the high costs of the anti-war demonstrations. Given the size of the San Francisco protests, the extent of the unrest, and the number of arrests, it appears that San Francisco's costs are in line with those of Seattle and New York. Neither Seattle nor New York appears to have any policy or procedure that leads to a reduction in Police Department costs.

### **Cost Recovery from Arrestees**

After the anti-war demonstrations in San Francisco, one Supervisor publicly considered the possibility of recovering some of the costs from those who were arrested. For comparison, the Disorder Control Unit of the NYPD has never attempted this type of cost recovery, and believes that it would most likely lose a court challenge, at least in New York, because such a policy would make a few pay for the expenses brought on by many participants. New York officers explained that even Philadelphia, who they described as being much harsher on protesters, is not attempting to enact monetary fines. The Seattle Chief of Police also reports that they have never attempted to recover costs from demonstrators.

<sup>8</sup> Terence Hallinan, "Why I Dropped Charges Against Protesters," San Francisco Chronicle. Tuesday, July 15, 2003. City Hall • 1 Carlton B. Goodlett Place, Room 244 • San Francisco, California 94102-4689 Telephone (415) 554-5184 • Fax (415) 554-7786 • TDD (415) 554-5227

## CONCLUSION

In most areas the San Francisco Police Department appears to have similar policies and procedures as both the Seattle Police Department and the New York Police Department. The general principles guiding police response to citizen unrest are nearly identical for the police departments of San Francisco, New York City, and Seattle. All three state that it is the policy of the police department to ensure that First Amendment rights are protected, that police involvement will be only as extensive and necessary to protect citizens and the community, and the needs of law enforcement.

Some questions have arisen at Board of Supervisors meetings as to whether too many officers were used during the anti-war demonstrations, and whether the same security and crowd control could have been achieved with fewer officers and thus less overtime expense. However, the appropriate ratio of police officers to protesters does not have a straightforward answer, and neither Seattle nor New York uses any type of formula. In this regard it does not appear that neither of these cities has a superior policy than that in San Francisco.

There has been little criticism in the press, by the Board of Supervisors or the general public regarding the crowd control measures employed by the SFPD. The SFPD is not known to have used excessive violence, nor violated First Amendment rights when exercised legally. The only differences between the policies of the NYPD and SPD regarding crowd control are New York's use of pens to contain demonstrators, and Seattle's use of "force multipliers," trained volunteers used to multiply the police force. The SFPD may want to investigate these techniques further to determine if they are appropriate for San Francisco. As mentioned earlier, the Department has experimented with both pens and force multiplier-like volunteers and has achieved mixed results.

If San Francisco wishes to prosecute a greater number of arrested demonstrators, using some of the NYPD's tactics for recording complete and accurate information at the time of arrest may help, such as immediate consultation from a supervisor and legal council, and having the arresting officer accompany the arrestee to the processing station. However, such tactics would mean that the arresting officer would have to leave the line of duty, which current SFPD procedures explicitly try to prevent. Similar to San Francisco, Seattle and New York tend to drop charges against most demonstrators.

The San Francisco Police Department has received considerable scrutiny over the high costs of the anti-war demonstrations. However, given the size of the San Francisco protests, the extent of the unrest, and the number of arrests, it appears that San Francisco's costs are in line with those of Seattle and New York. Neither Seattle nor New York appears to have any policy or procedure that leads to a reduction in police department costs.



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OLA#: 034-02

**LEGISLATIVE ANALYST REPORT** DOCUMENTS DEPT.

TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Office of the Legislative Analyst (OLA)  
DATE: September 10, 2003  
SUBJECT: Position Control in Other Jurisdictions (File No. 021965)

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**SUMMARY OF REQUESTED ACTION**

Motion (sponsored by Supervisor Gonzalez) requesting that the OLA survey human resources departments in other cities and counties which use "position control" systems to track the number of vacant positions and the duration of vacancies. The survey should include, but not be limited to, the effect of position control on filling vacant positions and preventing the transfer of salary appropriations for other uses.

**EXECUTIVE SUMMARY**

Position control generally refers to a system of tracking information based on positions. Under position control, every position is assigned a unique ID number. For example, if the Police Department has 50 authorized positions, then each of those positions is numbered one through fifty. The primary purpose of this system is to manage positions more precisely and thus enable more accurate monitoring of departmental spending.

Position control by itself would not produce cost-savings for the City. It would however allow City staff to (continuously) track vacancies, personnel turnovers, upward and downward substitutions and part-time employees. This may in theory lead to cost-savings as accounting errors or misuses of funds are identified and as decision making on spending becomes better informed.

The City and County of San Francisco (the "City") has not yet implemented a position control system. Instead its payroll and personnel services may be generally described as decentralized. The Controller's Office maintains financial data that pertains to the specific employee. It also operates the City's payroll

system. The Department of Human Resources (DHR) maintains personnel information that pertains to the specific employee.

Position control would allow City staff to link financial data to the relevant personnel data. As discussed later, there are at least three strategies for how the City might implement a position control system.

The Legislative Analyst believes that implementing position control in San Francisco would necessitate the formation of a working group comprised of representatives from DHR, Controller, Mayor's Budget Office and the largest City departments to address numerous policy, strategic and technical issues. Deciding to implement position control in San Francisco is of course a policy matter for the Board of Supervisors.

### BACKGROUND

**What is Position Control?** Position control allows any organization to create a framework of position numbers for all of its jobs without regard to whether those jobs are filled or vacant. A position number is a unique ID number that identifies a specific position.

Position control tracks payroll data like salaries (budgeted versus actual), vacancies and duration of vacancies. It also tracks personnel data like employee contact information, start and end dates, benefits, training and certifications. In effect, position control is a combined payroll and personnel system. The following is an example of a position-based system that could be modified to track other data such as upward and downward substitutions and the number of part-time employees occupying one FTE position (as discussed later).

Table: A Position-Based System

Job	Position No.	Budgeted Salary	Incumbent	Actual Salary	No. of Vacancies	Cost Difference
Director	0001	\$80,000	Joe Smith	\$80,000	0	0
Accountant	0005	\$60,000	-	-	1	(\$60,000)
Manager	0008	\$58,000	Gus Jones	\$58,000	0	0
Secretary	0189	\$34,000	Laura Brown	\$30,500	0	(\$3,500)
<b>Total</b>	<b>4 positions</b>	<b>\$232,000</b>	<b>3 incumbents</b>	<b>\$168,500</b>	<b>1 vacancy</b>	<b>\$63,500 under budget</b>

### CURRENT PRACTICES

Currently, the City depends on a number of City agencies for tracking payroll and personnel information, each with defined roles as follows.

- The Payroll and Personnel Services Division (PPSD) of the Controller's Office provides payroll/personnel services for 27,000 employees and ensures compliance with City, State and Federal tax, wage and hour regulations. The division receives and processes large volumes of automated input and over 160,000 paper documents annually which result in the issuance of about 800,000 paychecks.
- The Information Services Division (ISD) of the Department of Human Resources (DHR) provides information systems support and technical assistance to DHR, the Civil Service Commission, decentralized personnel units and other departments who are users of the PeopleSoft Human Resources Management System (HRMS) and other DHR applications.
- The Accounting Operations and Systems Division (AOSD) of the Controller's Office controls the financial activities of the City. The division certifies contracts, pays vendors, approves personnel requisitions and reviews, monitors, controls and projects departmental expenditures on a continuous basis to assess overall fiscal condition. The division is also responsible for maintaining the City's Financial and Accounting Management System (FAMIS).

The City's payroll and personnel services may be generally described as decentralized. AOSD uses FAMIS to track-authorized positions, salaries, vacancies and other financial data that pertains to the specific employee. DHR uses PeopleSoft-HRMS to track employee contact information, start and end dates, job classifications and titles, benefits, training, certifications and other items that pertain to the specific employee.

The following are a few areas in the way the City currently does business that could be improved by implementing position control.

- *Vacant Positions.* Determining the number of vacant positions in a given department is not as easy as opening its departmental budget and pointing to a line item entitled "vacant positions." Instead DHR calculates this figure by comparing the total number of filled positions in each job class to the total number of budgeted positions in each job class. Put together, the number of vacancies in each job class totals to the number of vacancies in a department. Position control would allow City staff to determine the total number of vacancies within departments at any given time.
- *Upward and Downward Substitutions.* During the fiscal year, a department may fill a vacancy at a lower or higher classification than what was originally budgeted. This practice is referred to as "TX-ing" and may be upward

(switching for a position where the rate of pay is higher) or downward (switching for a position where the rate of pay is lower). Currently, neither FAMIS nor PeopleSoft have the capacity to track these changes.<sup>1</sup> Instead they are registered by the Mayor's Budget Office only after departments submit their budgets for the following year. Position control would allow City staff to identify substitutions performed by departments at any given time.

- *Part-Time Employees.* A full-time equivalent (FTE) is the amount of work that is expected to be performed by an employee working full-time for a full year. In most cases, one full-time permanent employee will fill a position that has one FTE allocated to it. However, with respect to temporary positions, in some cases more than one part-time employee fills one FTE. DHR can currently track part-time employees in temporary positions, but the Controller's Office cannot. Position control would allow all City staff to identify the number of part-time employees occupying one FTE position at any given time.

#### OTHER JURISDICTIONS

The OLA was asked to identify position control systems in other jurisdictions. To this end, we contacted various "human resource" groups and associations.<sup>2</sup> The California Society of Municipal Finance Officers (CSMFO) and International Personnel Management Society (IPMS) were the most responsive. They advised us to survey their members directly. Attached is a summary of survey responses from nine cities within California and three other jurisdictions in the United States.

#### DISCUSSION

Based upon our preliminary analysis, the following are a few approaches for how the City might implement a position control system.

- *Expand PeopleSoft, FAMIS or the City's Payroll System.* Because the Controller's Office already operates two of the three systems, it is reasonable to assume that that office could begin tracking personnel information too. However, FAMIS and payroll were designed for specific purposes. Altering

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<sup>1</sup> There is however a certain type of tracking that occurs throughout the fiscal year. The Controller's Office periodically compares authorized spending versus actual spending. Ultimately, it will release only those funds that have been appropriated by the Board of Supervisors. If a department expends or will expend its budget before the end of the fiscal year, typically it will ask the Board for a supplemental appropriation.

<sup>2</sup> The California Society of Municipal Officers (CSMFO), International Personnel Management Society (IPMS), Government Financial Officers Association (GFOA), National Human Resources Association (NHRA), Northern California Human Resources Association (NCHRA), Society for Human Resource Management (SHRM), International County City Management Association (ICCMA) and International Public Management Association for Human Resources (IPMA-HR).

the functions of these systems may destabilize them, according to the Controller's Office. The more likely candidate for expansion is DHR's PeopleSoft. This software has a Financials Module, which the City has not yet purchased, but could presumably be used to track financial and payroll data.

This scenario becomes problematic quickly however when one considers that DHR's expertise lies in personnel (not financial) matters and the Controller's Office has no experience using PeopleSoft's products. Neither is therefore currently capable of operating a combined payroll and personnel system. Equally troublesome is that PeopleSoft may not be the best software for the City's financial needs. According to DHR, simply because the City already owns PeopleSoft is not enough reason to adopt it as our position control system. The Legislative Analyst concurs with this assessment.

- *Bridge the Gaps Between the Existing Systems.* In an effort to implement a kind of position control, DHR and the Controller's Office could connect their systems together, but continue to operate them separately. The goal of this alternative would be to improve information sharing. Our office contacted several software companies and inquired about their position control software.<sup>3</sup> We learned that they would probably need to customize their products to meet the City's particular needs and constraints. This would inevitably lead to higher start-up costs. However, this is not the worst that could occur. If the connection fails, the existing systems may be temporarily or even permanently destabilized. It is important to keep in mind that these systems were not designed to connect with one another.
- *Create a New Position Control System.* This would be a massive undertaking that will affect all City departments, according to City staff. Data for thousands of City employees would have to be consolidated into a single system. Under this scenario, there are numerous issues that need to be addressed prior to implementing position control. For instance, will DHR and the Controller's Office retain their respective functions? Who will be responsible for maintaining the new system? Will the system be "home-grown" or will the City purchase it from a private vendor? Will the budget process drive position control, as is the case in other jurisdictions? Within this context, the Legislative Analyst believes that the City's first step towards implementing position control could be to create a working group comprised of representatives from DHR, Controller, Mayor's Budget Office and the largest City departments to address the above issues. Working together these individuals could gradually implement position control, while simultaneously keeping current payroll and personnel services functioning properly.

<sup>3</sup> PeopleSoft Inc., InfiSoft Software, Pentamotion Software, Inetgral System Software and HTE Government Software.



### CONCLUSION

Implementing position control in San Francisco would be a massive and perhaps expensive undertaking but it has the potential to provide the City with a mechanism for managing positions more precisely. Position control by itself would not produce cost-savings. It would however allow City staff to link financial data with the relevant personnel data. This tracking may in turn lead to cost-savings as accounting errors or misuses of funds are identified and as decision making on spending becomes better informed. However, the Legislative Analyst believes that the cost of implementing position control in San Francisco should be weighed against its potential to produce cost-savings.

*Notably, none of the jurisdictions surveyed reported using position control to prevent departments from transferring their salary appropriations for other uses.*

If the City desires to implement a position control system in San Francisco, it should first create a working group comprised of representatives from DHR, Controller, Mayor's Budget Office and the largest City departments to address numerous policy, strategic and technical issues. Implementing position control in San Francisco is of course a policy matter for the Board of Supervisors.

**A Survey of Position Control Systems in Other Jurisdictions  
By the Office of the Legislative Analyst**

Name of Jurisdiction	Date Established	Operating Software	Major Features	User Comments	Contact
City and County of San Francisco, CA	No response	PeopleSoft software, FAMIS and a payroll system (all purchased from private vendors)	<p>Separate payroll and personnel systems</p> <p>-</p> <p>DHR administers the PeopleSoft software which includes two modules: Human Resources Management and Benefits Administration</p> <p>-</p> <p>The Controller's Office operates FAMIS and the payroll system</p> <p>-</p> <p>Positions are tracked by the Controller's Office according to cost centers (funding sources)</p>	<p>Each system operates independently and information is not shared efficiently or effectively.</p>	<p>Ray Wong 415-557-4833</p> <p>Sandy Holmes 415-558-7862</p>
City of Alameda, CA	1998/99	Pentamotion software	<p>Combined payroll/personnel system</p> <p>-</p> <p>Every job class has a unique ID number, as does every position in each job class</p> <p>-</p> <p>Tracks incumbents, prior employees and turnovers</p> <p>-</p> <p>Uses different sequence of numbers for part-time and full-time positions</p> <p>-</p> <p>Uses position control only for filling authorized positions, not for budgeting positions</p>	<p>It will not allow an employee to be paid without first creating a position for that employee.</p> <p>It will allow a start and end date for a temporary position. The employee cannot be paid until the start date or after the end date.</p> <p>It did require substantial setup time when it was first set up. Once it's set up it's easy to make a change.</p>	<p>Laura Gwynne 510-748-4540</p>

A Survey of Position Control Systems in Other Jurisdictions  
By the Office of the Legislative Analyst

City of San Rafael, CA	2002	Eden Systems software	<p>Combined payroll/personnel system</p> <p>Every position has a unique ID number</p> <p>Information from system may be downloaded onto Excel spreadsheets for analysis and reporting purposes</p> <p>Used for budgeting</p>	<p>The system exactly matches the personnel positions authorized by the City Council. It is possible to underfill/overfill within this system. For instance, if 10 positions are authorized but 11 employees are hired, the system tracks the overfilled employee. Plus if a position is filled by more than one employee, the system is still set at one salary per position.</p> <p>We use the system to track vacancies and...to develop and drive a two-year budget process.</p>	Ken Nordhoff 415-485-3055
City of Shreveport, LA	Approximately 1983 updated annually	Integral System software	<p>Combined payroll/personnel system</p> <p>Every position has a unique 5-digit ID number. Separate tables are cross-referenced to derive salaries, payroll, job classes &amp; titles and other position information</p> <p>No multiple occupancy of single positions</p> <p>Uses position control only for filling authorized positions, not for budgeting positions</p>	<p>We're very accustomed to our system and therefore find it meets our needs. The software has been tinkered with considerably over the years to give us the reports we need without many hassles. I can't imagine a substantive improvement within the context of our present operating system.</p>	Joseph Lunt 318-673-5199

A Survey of Position Control Systems in Other Jurisdictions  
By the Office of the Legislative Analyst

Commonwealth of Pennsylvania, PA	1992	In-house system	Combined payroll/personnel system Every position has a unique ID number Tracks vacancy duration with "position vacated date" Used for budgeting	Since 1992, the current system has given the agencies (departments) the capability of managing their salaried and wage complement within the budgeted FTE figures and control their own usage of the positions. The system is used by the Governor's Office of the Budget in preparing agency spending plans on behalf of the Governor.	Ralph Winters 717-705-5626
City of Berkeley, CA	No response	HTE Government Software	Combined payroll/personnel system Each position has unique ID number. Tracks information for employees who hold multiple positions Uses position control for filling authorized positions Reports generated regularly.	Disadvantage: When positions are added or deleted, HTE requires a shadow note system.	Nicki Spillane 510-981-6807
City of Long Beach, CA	No response	No response	No response	Currently, the City of Long Beach uses position control when approving requisitions. We compare the budgeted number and the filled number to determine if there is indeed a vacancy for a classification in position control.	Marisel Sipman 562-570-6649

A Survey of Position Control Systems in Other Jurisdictions  
By the Office of the Legislative Analyst

City of Oxnard, CA	No response	HTE Government Software	Payroll system only - Uses position control for filling authorized positions	We do not use it as a true position control system. It is too difficult to maintain with acting and temporary assignments. We allow HR to add unfilled positions to make it easier for processing new hires and changes. However, HR must maintain a manual list. We clean up the authorized positions during the city's budget process.	Bruce Dandy 805-385-7478
City of Lancaster, CA	Approximately 1996/1997 Revised in 2003	In-house system	Combined payroll/personnel system - Every position has a unique ID number - Tracks vacancies - Tracks positions filled at a lower or higher job classification and the number of part-time employees occupying one FTE	It requires some maintenance, and because it is able to track authorized classifications/positions over more than one division, it requires several like classifications to be changed if the authorized number is increased or decreased.	Gary Hill 661-723-6035
City of Whittier, CA	2002	In-house system	Personnel system only - Tracks positions by classification - Uses position control for filling authorized positions	The system is easy to use, but it is not linked to payroll system as cross check for phantom checks.	Fred Weiner 562-464-3390
City of Escondido, CA	1996	PeopleSoft software (not customized)	Personnel system only - Every position has a unique ID number - Tracks positions and part-time employees occupying one FTE	The system is cumbersome given the volume of positions we have. It also can be complex as it links to job data changes.  Does not track job class changes, vacancies or surplus salary data.	Gail Sullivan 760-839-4387

**A Survey of Position Control Systems in Other Jurisdictions  
By the Office of the Legislative Analyst**

Clark County, WA	No response	Banner software by SCT	<p>Combined payroll/personnel system</p> <p>Every position has a unique ID number</p> <p>Tracks authorized positions, salaries, payroll, job classes and titles, start and end dates, vacancies and duration of vacancies</p> <p>Tracks positions filled at a lower or higher job classification and the number of part-time employees occupying one FTE</p> <p>Linked to applicant tracking processes</p>	<p>It is flexible enough to help us with the various ways we fill positions. However, this can also be a disadvantage because there really is no "electronic" checks and balances. If we accidentally fill a position twice, the system does not care.</p> <p>We will be converting to another system sometime next year (2004), Oracle's HR product. We hope it will contain some of the flexibilities of our current system, yet also have some checks and balances that our system doesn't have.</p>	Carol Chisleit 360-397-2456
City of San Clemente, CA	No response	No response	<p>Personnel system only</p> <p>Every position has a unique ID number (The first 2 digits identifies class, next 2 identifies grade and last digit identifies overlap where multiple job titles carry the same pay scale)</p>	<p>It is difficult to make sure that all of these positions add up to the appropriate FTEs. Position control is not used to track open vacancies or duration of vacancies formally. No reports generated on a regular basis.</p>	Tom Rendina 949-361-8312





CITY AND COUNTY OF SAN FRANCISCO  
BOARD of SUPERVISORS

City Hall Room 241



OFFICE OF THE LEGISLATIVE ANALYST

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(OLA #:025-03 and 029-03)

**LEGISLATIVE ANALYST REPORT**

**To:** Members of the Board of Supervisors  
**From:** Adam Van de Water, Office of the Legislative Analyst  
**Date:** November 13, 2003  
**RE:** Cell Phone Antennae (File #031284 and 031411)

DOCUMENTS DEPT.

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**SUMMARY AND SCOPE OF WORK**

Supervisors Ma and Sandoval introduced separate motions requesting the Office of the Legislative Analyst (OLA) research issues related to the siting of cellular phone antennae. Supervisor Ma requested that the OLA research model municipal practices with respect to establishing appropriate and/or shared sites for cellular antennas. Supervisor Sandoval requested that the OLA review, analyze, and make recommendations to the Board of Supervisors regarding the feasibility of enacting a cell phone antennae installation moratorium until the City reviews and updates the existing Planning Department's Wireless Telecommunications Services Facilities Guidelines (the "Guidelines").

**EXECUTIVE SUMMARY**

The San Francisco Planning Commission (the "Commission") adopted a comprehensive set of guidelines for siting wireless telecommunications antennae in 1996. While comprehensive when compared to those of other surveyed jurisdictions, the guidelines have attracted considerable public protest due to the high concentration of antennae in San Francisco and the fear that they will reduce property values and harm public health. As a result, according to attorneys and planners in other jurisdictions, San Francisco is frequently cited as both a model (for its comprehensive guidelines) and a warning (for the extensive regulatory process required to erect an antenna).

Section 4.105 of the Charter and Section 308.1(b) of the Planning Code require the Board of Supervisors to hear Conditional Use (CU) Permit appeals and require a two-thirds vote of the Board to overturn the Commission's decision. However, the Telecommunications Act of 1996 imposes significant restraints on the City's regulation of wireless facilities. Among other things, the Act specifically prohibits the Board from disapproving antennae for public health concerns or denying a permit without "substantial evidence" in a written record. The City retains local land use authority and can regulate the height, location, visual impact, and/or zoning compliance of a new antenna.

Some courts have upheld temporary moratoria on new antenna construction under the Act while others have struck them down. However, nothing in the Act prevents the City from prohibiting wireless carriers from using city-owned property for their facilities. Please consult the City Attorney's Office for more information on court interpretations of the Telecommunications Act.

With demand for wireless antennae construction and public concern of their health impacts continuing to grow, the Board may wish to pass a resolution urging the Planning Department to revise the Wireless Telecommunications Services Facilities Guidelines as well as propose a fee to pay for the revisions. Among the revisions the Planning Department should consider are:

- require wireless providers to pay for periodic scientific measurement of radiofrequency (RF) radiation and service coverage by independent consultants selected by the Planning Department (as currently authorized in Sections HS1 and CI2 of the Guidelines),
- explicitly define "adequate coverage" and "adequate capacity" and require wireless service providers to demonstrate that existing antennae do not allow them to meet them,
- improve neighborhood notification requirements by further standardizing public notice mailings and requiring public meetings to be held two weeks in advance of the CU hearing,
- include provisions to indemnify the City from claims alleged to result from the environmental effects of RF radiation,
- protect wireless service providers from the public release of trade secret or other proprietary information,
- coordinate with the Metropolitan Transportation Authority and the Department of Public Works to mount antennae on city-owned MUNI or utility poles in high-density corridors,
- require consideration of (or higher Preferred Location of) lower-power repeaters or microcells to fill holes in service delivery prior to approval of any new antennae,
- require consideration of all possible means to share antennae bandwidth with other wireless service providers prior to approval of any new antennae, and/or
- re-examine the seven preference location sites in Section 8.1 of the Guidelines to ensure, for instance, that a publicly-owned building in a residential district is not necessarily preferred over a mixed-use building in a high-density district.

### **THE BASICS: HOW CELLULAR ANTENNAE WORK**

Cellular phone facilities typically consist of three primary parts: the antenna, the base station, and the equipment. Typical antennae measure approximately four feet in height and six inches in width and are designed to send and receive signals to and from cellular phones (low-power, single channel, two-way radios). They do this using radiofrequency (RF) radiation at frequencies between 800 and 1900 megahertz (MHz). This is a low-power transmission greater than FM radio, cordless telephone, and television broadcasts of approximately 100 MHz and less than microwave oven frequencies of approximately 2,450 MHz.

Antennae are typically mounted on an existing building or separate structure (the "base station") well above street level to both minimize public exposure to the RF radiation and maximize cellular transmission. Signals sent and received by the antenna are transmitted through cables to

be converted into local landlines by equipment typically installed inside the building or at the base of the station.

The Planning Department estimates that there are 463 base station sites in San Francisco and as many as 2,400 cell phone antennae citywide (many stations have two to four antennae per site)<sup>1</sup>.

### HOW CELLULAR ANTENNAE ARE REGULATED

#### **Federal Law**

Section 704 of the Telecommunications Act of 1996 states that state and local governments cannot:

- i. "unreasonably discriminate among providers of functionally equivalent services"<sup>2</sup>;
- ii. "prohibit or have the effect of prohibiting the provision of personal wireless services."<sup>3</sup>; or
- iii. "regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission's regulations concerning such emissions."<sup>4</sup>

Furthermore, any request for authorization to place, construct or modify a wireless facility must be acted on "within a reasonable period of time"<sup>5</sup> and any denial must be "in writing and supported by substantial evidence contained in a written record."<sup>6</sup>

#### **The Federal Communications Commission (FCC)**

The FCC allocates service providers specific frequencies on the electromagnetic spectrum and sets the safety standard for public exposure to RF radiation.

The current safety standard – developed in 1996 in a collaboration between government, the scientific community, industry associations, and the public – limits public exposure levels to approximately two percent of the level where replicated biological effects (cataracts, skin burns, deep burns, heat exhaustion and heat stroke) have been observed<sup>7</sup>. According to the Institute of Electrical and Electronics Engineers (one of the co-creators of the FCC's public exposure safety guidelines),

*In nearly all circumstances, public exposure to RF fields near wireless base stations is far below recommended safety limits... Consequently, wireless base stations are not*

<sup>1</sup> Telephone interview with Jonas Ionin, SF Planning Department 8/29/03.

<sup>2</sup> 47 U.S.C. §332(c)(7)(B)(i)(I)

<sup>3</sup> 47 U.S.C. §332(c)(7)(B)(i)(II)

<sup>4</sup> 47 U.S.C. §332(c)(7)(B)(iv)

<sup>5</sup> 47 U.S.C. §§332(c)(7)(B)(ii).

<sup>6</sup> 47 U.S.C. §§332(c)(7)(B)(iii).

<sup>7</sup> John E. Moulder, Ph.D. "Cellular Phone Antennas (Mobile Phone Base Stations) and Human Health", Medical College of Wisconsin. FCC limits are currently set at 0.57 mW/cm<sup>2</sup> at 900 MHz and 1.0 mW/cm<sup>2</sup> at 1800-2000 MHz. Replicated biological effects have been observed at 40 mW/cm<sup>2</sup>.

*considered to present a risk to the general population including aged people, pregnant women and children*<sup>8</sup>.

The long-term effects of RF radiation, however, are poorly documented and the scientific community widely disagrees on the public health impacts of continued exposure to RF radiation.

### ***The Planning Code***

The Planning Code permits cellular antennas and base stations as a Principal Use in Commercial and Industrial Districts when they meet certain height and location requirements. If the antennas do not meet these requirements or if they are located in Residential or mixed Residential-Commercial Districts, they can still be approved by the Planning Commission as Conditional Uses (CUs)<sup>9</sup>.

Per Section 308.1(b) of the Planning Code, Planning Commission approval or denial of a Conditional Use permit for new cell phone antennae construction can be appealed to the Board of Supervisors within 30 calendar days of the Planning Commission's decision for a fee of \$275. As of the writing of this report, the Board of Supervisors has upheld the last six CU appeals for wireless antennae.

### ***The Planning Department and Commission***

The Planning Department has the authority to regulate new cell phone antenna construction on the basis of neighborhood compatibility, aesthetic design, and compliance with height restrictions and the General Plan. The Planning Code and the 1996 Wireless Telecommunications Services Facilities Siting Guidelines ("Guidelines") form the basis for the Planning Commission's consideration of new cell phone antenna construction.

Section 8.1 of the Guidelines establishes preferred location sites for new antennae CU approval and ranks them by priority siting. In order, they are:

#### **Preferred Location Sites**

1. Publicly-Used Structures (police or fire stations, libraries, utility structures, etc.)
2. Co-location Sites (until it resembles an "antennae farm" or "is otherwise deemed visually obtrusive")
3. Industrial or Commercial Structures (where other visual obstructions/clutter are removed as part of the installation)
4. Industrial or Commercial Structures (with NO removal of visual obstructions/clutter)
5. Mixed Use Buildings in High Density Districts (if good faith efforts were made to first secure a preferred location site above)

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<sup>8</sup> Safety Issues Associated with Base Stations Used for Personal Wireless Communications, A COMAR Technical Information Statement. IEEE Eng Med Biol. Mar/Apr 2001, pp. 110-114. Online at: <http://ewh.ieee.org/soc/embs/comar/base.htm>.

<sup>9</sup> Certain lower power antennae (so-called 'microcells') can qualify for a third category -- Accessory Use -- at the discretion of the Zoning Administrator. Accessory Use permits are not subject to formal public notification procedures.

### Limited Preference Sites

6. Buildings in Neighborhood Commercial Districts (if good faith efforts were made to first secure a preferred location site above)

### Disfavored Sites

7. Buildings in Zoned Residential Districts (must demonstrate "clear and convincing evidence" of good faith efforts to first secure a preferred location site above and demonstrate that the location is "essential to meet demands in the geographic service area."<sup>10</sup>)

As part of the application process, service providers must also:

- Show that new antennae and base equipment satisfy local noise ordinances, minimize visual impacts and thermal transmissions, avoid or minimize intrusion into usable open space, and provide barriers and signage to prevent persons from passing within the safety limits established by the FCC-adopted standards;
- Provide Five Year Facilities Plans indicating the location, frequency, and type of technology of each existing and proposed antenna;
- Estimate cumulative RF emissions;
- Provide mailing labels for owners and tenants within a 500-foot radius of the proposed location for public notification purposes; and
- Prepare a Program Implementation Report showing the results of RF emissions tests.

### IMPOSING MORATORIA

In response to a petition filed with the FCC by the Cellular Telecommunications Industry Association ("CTIA"), the FCC's Local and State Government Advisory Committee met with CTIA and other wireless industry trade associations to discuss best practices for siting new antenna facilities. On August 5, 1998 they agreed to guidelines that dealt with informal dispute resolution and moratoria. According to the guidelines,

*Moratoria, where necessary, may be utilized when a local government needs time to review and possibly amend its land use regulations to adequately address issues relating to the siting of wireless telecommunications facilities in a manner that addresses local concerns, provides the public with access to wireless services for its safety, convenience and productivity, and complies with the Telecommunications Act of 1996.*

Smaller cities across California (Berkeley, Los Gatos, Saratoga, and Sausalito) and the nation (Mecosta County, MI, Bloomington, MN, Medina, WA) have enacted temporary moratoria on new wireless antennae. However, some courts have upheld temporary moratoria on new antenna construction under the Act while others have struck them down. Please consult the City Attorney's Office for more detail on court interpretations of the Telecommunications Act and the applicability to establishing a moratorium in San Francisco.

<sup>10</sup> Section 8.1, WTS Guidelines, page 30, August 15, 1996.



### **The School Districts**

City College of San Francisco does not currently have any wireless antennae on its buildings or grounds. According to Vice Chancellor Peter Goldstein, this is not due to any City College written policy but instead was the result of a breakdown in negotiations due to faculty and student health concerns as well as after hours access considerations once the buildings are locked and alarmed.

San Francisco Unified School District facilities manager Phil Smith does not believe there has ever been a district moratorium on wireless antennae and points to the current existence of antennae in two locations as evidence against any prior or existing moratorium.

### **Berkeley**

The City of Berkeley enacted a temporary moratorium (just over one year in length) on cellular antennae in 2000 in order to codify its siting guidelines into Chapter 23C.17 of the Berkeley Zoning Code. According to Deputy City Attorney Zach Cowen, the wireless industry was reasonable and "went the extra mile" to cooperate<sup>11</sup>. To date, the City has not been sued over the moratorium or the ordinance.

### **Sausalito**

The City of Sausalito enacted a temporary moratorium (approximately one and one half years) on cellular antennae in 2001 in order to codify its siting guidelines into the municipal code. The wireless industry participated in a twelve-person committee to develop the ordinance and, according to Planning Director Drummond Buckley, was cooperative throughout<sup>12</sup>.

### **San Diego**

While the full City Council never enacted it, according to Deputy City Attorney Paul Edmonson, a San Diego City Council committee issued a six-month "de facto moratorium" on conditional use permits for cellular antennae as the city underwent revision of the municipal code. The revision process was undertaken with the full cooperation of the wireless industry that participated from the beginning. According to Mr. Edmonson, the City of San Diego is currently waiting to see if a court decision against San Diego County will require any changes to their ordinance before they revise their municipal code.

### **San Diego County**

San Diego County recently enacted similar revisions to their municipal code and was subsequently sued by AT&T Wireless and Sprint Corporation for violations of the federal Telecommunications Act and the state Public Utilities Code. According to Deputy County Counsel Tom Bunton, the final judgement in the case, including any anticipated appeals, could take several years to resolve.

### **Seattle, WA**

Chapter 23.57 of the Seattle Municipal Code regulates the siting of cellular antenna in the City of Seattle, WA. Mayor Greg Nickels has introduced a draft ordinance amending Chapter 23.57 to

<sup>11</sup> Telephone interview October 21, 2003.

<sup>12</sup> Telephone interview October 21, 2003.

prohibit cellular antennae in Single Family and Residential Small Lot zones in most situations. As required by federal law, the legislation would allow for rare exceptions to this prohibition, such as when a cellular antenna is located completely within a non-single family structure or when the industry can produce verifiable engineering data indicating a significant gap in cellular service.

According to Alan Justad, the Department of Planning and Development expects to issue a Rule by the end of the calendar year explicitly defining 'significant gap in service' as it pertains to strength of signal, dropped calls, dropped handoffs between antennae, and setup failure<sup>13</sup>. The draft ordinance is currently before the city council. However, as they are currently undergoing end of the year budget deliberations, Mr. Justad does not believe they will take up the matter before early 2004.

### GUIDELINES IN OTHER JURISDICTIONS

The OLA reviewed six jurisdictions with explicit guidelines (Santa Cruz County, Warren, CT, Great Barrington, MA, Portland, OR, Denver, CO, Seattle, WA, and West Stockbridge, MA) and found that San Francisco has one of the most comprehensive antennae siting guidelines. While many jurisdictions have guidelines similar to San Francisco's in terms of zoning requirements, facility setbacks, co-location, signage, and compliance with the Telecommunications Act, there are a few notable differences:

- a) The **Santa Cruz County** Board of Supervisors is currently undergoing final review of their proposed Wireless Communications Facilities Ordinance and have proposed to expressly prohibit new antennae in all residential zoning districts, on the coastline, and on all public and private K-12 school sites;
- b) The City of **Seattle** has also proposed to prohibit new antennae in all residential zoning districts (see above). However, in order to remain in compliance with the Telecommunications Act, they have allowed for "rare exceptions to this prohibition such as, when a cell antenna is located completely within a non-single family structure or when cell service cannot be provided otherwise."<sup>14</sup>
- c) Prior to approving a permit for new antennae, the small Town of **Warren, CT** requires wireless providers to:
  - i. prove inadequate capacity or coverage,
  - ii. use lower-power repeaters where possible,
  - iii. pay for an independent consultant chosen by the town to conduct pre- and post-antenna testing,
  - iv. indemnify the town from insurance claims, and
  - v. reapply for a permit after five years.
- d) The City of **Boca Raton, FL** requires a maintenance bond in the amount of ten percent of the cost of construction of the tower "to ensure that the tower is maintained in a condition

<sup>13</sup> Telephone interview October 21, 2003.

<sup>14</sup> Mayor Nickels' Cellular Antenna Proposal Frequently Asked Questions on-line at [http://www.cityofseattle.net/mayor/issues/Cell\\_Antenna\\_FAQ.htm](http://www.cityofseattle.net/mayor/issues/Cell_Antenna_FAQ.htm).

that complies with all applicable building standards and regulations” and asserts that all trade secret and proprietary information will not be released to the public unless required by law.

- e) **Great Barrington, MA** requires wireless service providers to pay for independent consultants to monitor electromagnetic fields and to provide written documentation that existing antennae do not provide adequate service<sup>15</sup> and adequate coverage<sup>16</sup>. As the courts have yet to weigh in on the legal difference between service coverage (strength of signal throughout a service area) and service capacity (including non-emergency communications such as the ability to send and receive e-mail and video), such language could play an important role in future permit applications.

### CONCLUSION & RECOMMENDATION

With demand for wireless antennae construction and public concern over those facilities continuing to grow, the Board may wish to pass a resolution urging the Planning Department to revise the Wireless Telecommunications Services Facilities Guidelines. Among the revisions the Planning Department should consider are the following:

- require wireless providers to pay for periodic scientific measurement of radiofrequency (RF) radiation and service coverage by independent consultants selected by the Planning Department (as currently authorized in Sections HS1 and CI2 of the Guidelines),
- explicitly define “adequate coverage” and “adequate capacity” and require wireless service providers to demonstrate that existing antennae do not allow them to meet them,
- improve neighborhood notification requirements by further standardizing public notice mailings and requiring public meetings to be held two weeks in advance of the CU hearing.
- include provisions to indemnify the City from claims alleged to result from the environmental effects of RF radiation,
- protect wireless service providers from the public release of trade secret or other proprietary information,
- coordinate with the Metropolitan Transportation Authority and the Department of Public Works to mount antennae on city-owned MUNI or utility poles in high-density corridors,
- require consideration of (or higher Preferred Location of) lower-power repeaters or microcells to fill holes in service delivery prior to approval of any new antennae, and
- require consideration of all possible means to share antennae bandwidth with other wireless service providers prior to approval of any new antennae, and/or
- re-examine the seven preference location sites in Section 8.1 of the Guidelines to, for instance, ensure that a publicly-owned building in a residential district is not necessarily preferred over a mixed-use building in a high-density district.

<sup>15</sup> Explicitly defined as “that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal is greater than -95dBm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95dBm, as long as the signal regains its strength to greater than -95dBm further away from the Base Station.

<sup>16</sup> Defined as a Grade of Service of p.05 or better – i.e., 95 percent of calls will connect on the first try at the busiest time of day – for at least 50% of the days in a preceding month.

The Board should consult with the City Attorney's Office regarding any legal issues that may arise if the Board were to impose a temporary moratorium on construction of new wireless facilities while the Planning Department considers revisions to the Guidelines.

As part of the same resolution, the Board may also wish to urge the Planning Department to propose fees to be placed on new wireless facilities permits to support ongoing revisions to the Guidelines as well as compliance monitoring of existing antennae.

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OLA#: 021-03

**LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Anthony Ababon, Office of the Legislative Analyst  
DATE: December 12, 2003  
SUBJECT: CitiStat Technology Systems (File No. 031154)

DOCUMENTS DEPT.

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**SUMMARY OF REQUESTED ACTION**

A motion (sponsored by Supervisor Newsom) requested that the Office of the Legislative Analyst (OLA) research CitiStat technology systems in Baltimore and review how other major cities including New York, Chicago, and Phoenix have implemented data management systems similar to CitiStat.

**EXECUTIVE SUMMARY**

Based on the CompStat crime reduction system deployed in New York City and other jurisdictions, CitiStat is a management strategy originated in Baltimore using technology to gather statistics and manage performance of city departments. CitiStat and other performance management systems are not strictly technology programs, they are methods of managing information and leveraging technology for the purpose of improving efficiency.

The OLA surveyed the implementation of CitiStat in Baltimore and similar systems and processes in Chicago, New York, and Phoenix. The systems were adopted because the cities were concerned with holding departments accountable for their performance. In addition, the cities wanted to track the departments' progress in meeting goals and objectives set by city officials and believed that the best way to track progress is to quantify measurements of department performance. (See Appendix for an example of indicators) Also, the cities wanted to improve customer service delivery to the public.

While data about the performance of departments is currently collected twice a year by the San Francisco Controller's Office, the Controller is not responsible for holding departments accountable for their performance—that responsibility falls to the Mayor and Board of Supervisors. Based on the experience of other cities, adopting a CitiStat approach would make the review of department performance and the identification of problems more frequent. The CitiStat approach would also shorten the time period to implement changes aimed at improving



efficiency and productivity if combined with an enforcement mechanism or a system of financial incentives for holding departments accountable.

In the event that San Francisco decides to pursue a CitiStat-type implementation, strong executive support from the Mayor and Board of Supervisors is essential to the success of such an interdepartmental management project. Before adoption of a CitiStat program, a full assessment of the current data management systems and performance measurements of several City departments needs to be performed by an internal or external organization in order to study the feasibility of integrating them into a single database accessible to City officials. San Francisco may set up a dedicated CitiStat office with a designated city official to oversee the management process and analysis.

### **BACKGROUND**

CitiStat is a statistics based approach to performance management in Baltimore. CitiStat represents a management approach based on holding department staff accountable for trends in selected indicators of department performance. CitiStat is not a standardized management system nor does it only consist of technology tools. Similar principals are applied with different forms and names depending on the jurisdiction. For the purposes of this report, CitiStat refers to the implementation in Baltimore.

A CitiStat system includes collecting specific, accurate, and real-time performance data from department databases that is sent to a common database. Department heads and representatives meet regularly with city officials at CitiStat meetings to discuss fluctuations in performance data and develop strategies to improve or sustain the performance of each participating department. CitiStat meetings—the forum for the presentation of performance data that occur bi-weekly, monthly or quarterly—enable department heads, staff, and city officials to review and analyze measurements of department performance and efficiency. A dedicated CitiStat team of performance data analysts comprised of new or existing trained city employees prepares the data of participating departments that is presented at CitiStat meetings.<sup>1</sup>

The process of performance management requires the identification of the proper performance measures to track for each department. Among other responsibilities, City officials, department management, and the team of data analysts identify and develop measures for performance, develop processes to track necessary information, and determine appropriate targets for performance. Technologically, measurements of department performance and efficiency require electronic database systems and information systems that are capable of delivering real-time data on performance indicators selected by the City.

The vision that accompanies requiring frequent and regularly scheduled meetings with department staff and city officials is a more responsive, cost-effective, and efficient City government. The anticipated outcomes of adopting the CitiStat approach to performance management are responding to constituent requests for city services in a more timely manner, reducing redundancy of programs, and reducing City employee absenteeism and over-time

expenses. These outcomes were the most frequently mentioned of the cities studied, although cost-savings derived from implementing the approach are not guaranteed.

In addition, data and performance management systems are often integrated with centralized call centers (e.g. the “3-1-1” systems in Baltimore, Chicago, New York) through which constituents can request information, place requests for city services, and follow-up on the progress of their requests. The integration of a centralized call center with department databases enables the departments and the City to track its efficiency in responding to constituent requests.

### **Current Practice in San Francisco**

Currently, both the Budget Analyst Office and the Office of the Controller conduct management audits of City departments and programs. The Controller’s Performance Management and Audits divisions monitor the performance of the departments. The Audits division performs about two to three performance audits of selected departments per year.<sup>ii</sup> The Controller follows Generally Accepted Government Auditing Standards when it examines current processes, conducts interviews with management and staff, conducts surveys of other cities and counties for best practices, and evaluates management controls or tools used to guide and monitor operations. In addition, the Controller follows up six, twelve, and twenty-four months after reports are distributed and states that a vast majority of recommendations are implemented within two years.<sup>iii</sup>

Using existing technology infrastructure, the Controller’s Performance Management division updates department performance measures and data twice a year – early in the fiscal year on October 1 and mid-fiscal year in February as part of the annual budgeting process. In October, City departments report on performance for the prior fiscal year and any adjustments to their performance targets for the current year. Mid-fiscal year, departments submit performance data for the first six months, projected performance for the current fiscal year, and performance targets for the coming budget year. Each spring, the Controller also releases performance measures in the annual “City Survey” report.<sup>iv</sup>

The Budget Analyst performs comprehensive management audits as assigned by the Board of Supervisors and follows professional standards that must be met in conducting audits. The Budget Analyst examines the entire department including analysis and evaluation of management practices, command structure, department reports and web presence, organizational structure, staffing, technology, and expenditures and revenues. Audit recommendations approved by the Board of Supervisors are enforced through the budget process.

Other methods presently used by a few departments to review departmental performance include the following:

- The Public Health Department makes available to the public semi-weekly reports on the progress of programs and initiatives through the department web-site at <http://www.dph.sf.ca.us/DirectorsRpts>.
- The Police Department holds public meetings monthly, attended by the department’s respective commission, director, and department representatives.

San Francisco's [www.sfbizinfo.com](http://www.sfbizinfo.com), coordinated by the Small Business Commission (SBC), is an example of a collaborative effort to streamline service and information delivery by several City agencies providing related services. As the "central point of information and referral" for the business community, "sfbizinfo" assists with business registration, license services, and permit information. The "sfbizinfo" system is accessible in written form, on the Internet, and through a centralized call center staffed by trained professionals.

The stated mission of SBC is to promote and maintain a healthy small business climate in San Francisco. As the coordinator for "sfbizinfo", SBC ensures that participating public and private agencies work collaboratively. SBC meets monthly with its "core team" of public and private employees and meets quarterly with "sfbizinfo" contacts from participating agencies to ensure that departments fulfill performance measures determined by SBC.

From any of the "sfbizinfo" channels, each customer request is entered into a centralized database that is accessible to SBC and tracked until closed. SBC prints out weekly performance reports from the centralized database enabling SBC to track the progress of requests and hold agencies accountable for fluctuations in performance.

With regard to technology, the San Francisco Department of Telecommunications and Information Services (DTIS) operates a robust private data network and a nationally recognized Geographic Information System (GIS) for mapping and location based analysis. DTIS also has experience with large-scale citywide system implementation. DTIS is currently working with the Police Department to develop a crime mapping system similar to CompStat. As a result, DTIS is capable of deploying relatively quickly CitiStat technology by utilizing and expanding existing infrastructure and experience.<sup>5</sup>

### **Other Jurisdictions**

In addition to Baltimore CitiStat, the cities investigated for their use of data management tools to improve performance include New York, Chicago, and Phoenix. Each city has implemented data management tools to varying degrees and has utilized this data differently than CitiStat.

#### **The City of Baltimore**

The Baltimore City Government launched in 2000 an extensive implementation of a statistics based performance management system for the review, analysis, and improvement of department performance called CitiStat. Again, CitiStat is not a technology program on its own but leverages technology for the purpose of improving department performance. Participating departments attend bi-weekly or monthly CitiStat meetings and present performance data to a panel composed of the Mayor or Deputy Mayor and city executives from Finance, Information Technology, and Public Works among other departments.

The Baltimore City government lists 11 "operational service agencies" that perform specific and standardized functions that participate in CitiStat. These departments include, among others,

Public Works, General Services, Health, Housing and Community Development, and Parks and Recreation.

While these departments attend CitiStat meetings with the city's executives the departments also hold meetings internally to compile, review, and analyze performance data from divisions within the departments before attending CitiStat meetings.

The CitiStat system has the following components:

- Mayor's Office of Information Technology, Chief Information Officer, and a team of 6 CitiStat analysts.
- Information Technology division within each participating department responsible for collecting, organizing, and analyzing data.
- CitiTrack or the "Customer Relations Management" (CRM) system which is the *single point-of-communication* that handles all customer requests through a centralized call center ("3-1-1"), provides work order management, and feeds into the CitiStat process and department databases.
- The Metropolitan Area Network provides core network telecommunications services and connects the City departments.
- Geographic Information Systems (GIS) technology maps data spatially.
- Two computers display interactive GIS maps, charts, graphs, etc. on two 6 by 10 foot screens in the CitiStat meeting room.

Baltimore's initial costs for building the CitiStat meeting room, buying "off-the-shelf" mapping software, staffing and training, and setting up the system at the department levels are estimated at \$420,000.<sup>vi</sup>

However, other costs associated with the CitiStat model are more substantial. For example, the start-up and operating costs of CitiTrack (the "3-1-1"/CRM system) in fiscal year 2001 was \$2.5 million. CitiTrack costs about \$4 million per year, which includes a \$92,000 per month payment to Motorola to operate and manage the call center.<sup>vii</sup>

The City of Baltimore has realized over \$70 million in savings since CitiStat's inception due to reduced overtime costs, elimination and reduction of redundancy of programs, generation of new revenues, and increased efficiency. For example, CitiStat meetings revealed a source of inefficiency in the Public Works department involving a disconnection of tasks performed by two separate divisions within the department. Integrating and streamlining the task—fixing and replacing a water meter—resulted in savings of \$5 million per year.<sup>viii</sup>

Other notable achievements include the following:

- \$16 million in reduced overtime
- \$6 million in reduced operating costs
- \$8 million in increased revenue streams

## The City of New York

The New York Police Department (NYPD) implemented CompStat in 1994 to realize decreases in criminal activity and efficiencies in police work. The CompStat approach to crime reduction involves gathering accurate, real-time crime data and developing effective tactics to reduce crime. The NYPD rapidly responds to crime indicators and tracks fluctuations in indicators. The following year in 1995, the city's Department of Corrections adopted a CompStat-like approach to cover all aspects of departmental management and operations called Total Efficiency Accountability Management System or T.E.A.M.S.

The successes of these two performance management approaches—the NYPD's CompStat and the Department of Corrections' T.E.A.M.S.—prompted other departments to implement similar management systems collectively called the Citywide Accountability Program (CapStat) over the last ten years. Unlike CitiStat which relies on performance meetings with City officials, CapStat focuses on internal meetings within the department staff and management, although performance indicators are released to the public on the CapStat web-site.<sup>ix</sup>

The New York City Human Resources Administration (HRA) is an example of how a CapStat system was converted to meet the specific goals of the HRA. The HRA successfully converted welfare agencies into job placement centers using data management tools called JobStat, "the incorporation of data collected and processed from various sources to create JobStat monthly reports."<sup>x</sup>

JobStat reports enable HRA directors, regional directors, and staff to examine job center and employee performance by tracking indicators on the timeliness of public assistance, percentage of errors on food stamp applications, fair housing request rate, customer satisfaction rate, etc. Monthly meetings are held with job center directors to review performance on such indicators.

In addition, by city charter mandate, the New York City Mayor's Office of Operations publishes annually the "Preliminary Mayor's Management Report" and the "Mayor's Management Report" that assess department performance in April and September of each fiscal year. The current administration is considering integrating CapStat with the Mayor's Management Report. The management reports include, among other things, performance goals, performance measures, and the results of the report are discussed at public meetings following its publication.

The CapStat system has the following components:

- Defining areas of accountability.
- Implementing a database to collect data from departments that measures performance.
- Holding monthly department management meetings to review performance.
- Consolidating information through a web-based portal that releases the indicator information selected by department managers to constituents, users, and city officials.

Challenges to CapStat include the following deficiencies:

- Non-standardized and non-uniform format for releasing department indicators.
- Lack of rules regarding the content of measures released.
- Non-standardized technologies across participating departments.
- Lack of a citywide, consolidated database through which information is shared.



Information about the costs of launching and cost-savings derived from CapStat are unavailable.

In March 2003, New York implemented a centralized customer service “3-1-1” call center that handles citizen requests for service and information. The call center uses a Siebel Customer Relationship Management (CRM) system that is the technology tool to manage processes and data. New York is currently working on expanding the CRM to allow all city departments to connect or use the CRM tools. The overall budget for New York’s CRM system was \$25 million. This figure includes costs of technology, procurement, and staffing. The costs of integrating departments is expected to equal or exceed the initial \$25 million investment. Data analysis, performance management, and resource allocation are not yet developed although New York has already discovered process efficiencies.<sup>xi</sup>

### **The City of Chicago**

Chicago’s “3-1-1”/Customer Service Request System (CSR) has similar components to the systems in place in New York and Baltimore. Chicago’s CSR system provides a single point of access for government customers that want to request information or services from any of the city departments. The CSR system is Chicago’s single work order management system and is capable of generating reports on any of the services performed by each department as well as mailing “customer service letters” upon completion of the work order.

In 1998, Chicago implemented its “3-1-1” call center and Customer Service Request system to enable Chicago residents to request City services more easily and enable the City departments to respond to service and information requests more efficiently. The City of Chicago utilizes the statistics based reports generated by the CSR system to monitor crew and service performance by department. However, instead of holding regular accountability sessions as in the Baltimore CitiStat approach, Chicago’s Director of City Services meets regularly with department representatives to analyze department reports generated by the CSR system.

The City of Chicago invested \$8 million to set up its “3-1-1”/CSR system and to integrate departments into the system. Estimates of the cost-savings to Chicago since implementing CSR are unavailable but range in the millions, according to city officials.

For example, the CSR system has helped reduce redundancy in issuing work orders utilizing the “duplicate check method.” By tying the city’s electronic grid sub-system into one grid, only one crew from the Bureau of Electricity is dispatched when multiple requests are made for utility services originating from the same area. As a result, the city estimates savings of \$6.9 million in avoiding duplicate dispatches.<sup>xii</sup>

### **The City of Phoenix**

Phoenix—a City Manager form of government—has adopted incrementally a “managing for results” system since 1990 as part of Phoenix’s commitment to “meeting residents’ need for quality government services.” The Phoenix City Auditor Department works with departments,



the City Manager, the City Council, and citizen focus groups to develop performance and/or results indicators that reflect department inputs, outputs, efficiency, and outcomes.

The City Manager's Office evaluates and approves each department's plan for performance measurement and the Auditor biannually surveys all departments to analyze and evaluate each department's focus on performance results and reporting. As an incentive for departments to meet performance standards, the Phoenix "Performance Achievement Program" compensates executive and middle managers on a "pay-for-performance" basis.

The Auditor, city officials, and all 25 departments utilize automated database and information technology systems to collect and report performance results information. Each department electronically reports statistics monthly to the City Clerk and the City Auditor, and the statistics are turned into graphic illustrations contained in the City Manager Executive Report available online at [www.phoenix.gov](http://www.phoenix.gov). Performance information is also available in the following formats: a one page weekly "City Page" in the Arizona Republic newspaper, weekly Council Sessions and Subcommittee Meetings, monthly "Notes Newsletter" distributed as an insert in Phoenix water bills, the "Annual Citizens Report", and the "Community Attitude Survey" that is conducted every two-three years.

An example of a department that has benefited from the "managing for results" system is the Phoenix Human Services Department (HSD). This department has fully automated its data collection process, improving department performance. Instead of relying on data entry staff, HSD inputs data about clients, services, and programs at the line level with the case worker sitting across from the client. Automation has enabled the HSD management and city officials to monitor programs on a month to month basis with the level of services and clients remaining fairly constant. In addition, HSD no longer depends on data entry staff to input data.<sup>xiii</sup>

### Analysis

Based on the experiences of the cities surveyed, San Francisco may want to consider adopting either of the two options listed below or implement a system that combines elements from both options.

1. The most feasible and useful approach for San Francisco is to upgrade and integrate departments' database systems to make performance data accessible to City officials, users, and the public. The City could mandate a format for reviewing the performance of each department according to selected performance indicators, like the CitiStat and CapStat approaches. San Francisco could formulate enforceable objectives for all departments and hold regularly scheduled meetings with department heads and representatives to discuss progress in achieving selected objectives for each department.

#### **Arguments:**

##### *Pro:*

- Identifying sources of department inefficiency and making departments more accountable for their performance.

- Implementing a more timely enforcement mechanism for recommendations aimed at improving departments' efficiency and performance.
- Realizing potential cost efficiencies and cost savings.

*Con:*

- Infringing on the independence of departments that may already have systems in place that help the department review their progress in meeting department objectives and goals. For example, the San Francisco Health Department holds public meetings every first and third Tuesdays of the month that are attended by the Health Director, the Health Commission, and the public.
  - Investing a large amount of time, money, and hours to study the existing processes of departments and may require the reorganization of participating departments.
  - Hiring a dedicated staff of analysts that compiles, organizes, and presents data from participating departments to City officials. Each participating department would also be required to hire new or retrain existing information technology staff responsible for collecting, organizing, and distributing performance data at the department level.
2. Although not required for performance management systems, San Francisco could implement the above option and additionally establish a centralized call center (e.g. Baltimore, New York, and Chicago's "3-1-1" telecommunications system). The call center would handle all customer service and information requests. The call center could feed data about the service delivery performance of departments (e.g. fixing potholes, picking up trash, etc.) into the City's performance management system.

**Arguments:**

*Pro:*

- Provides improved customer service and requires analysis of current process to find efficiencies and resources.
- Frees up department resources away from answering and routing calls to service delivery.
- Offers a way to quantify department performance in responding to customer service requests and resource allocation..

*Con:*

- Expensive and complicated project in a time of limited resources.
- Adjustment period may result in temporary decline in performance as departments implement changes to service delivery.
- Departments will have to displace and/or re-train current reception and customer service staff.
- May require aggressive marketing strategy to make sure that all San Francisco residents are aware of the changes.

**CONCLUSION**

The survey of cities shows that the jurisdictions examined implemented a performance management system and leveraged technology (e.g. database management systems, Customer Relationship Management systems like "3-1-1", GIS mapping, etc.) to enhance department

accountability and improve the performance of participating departments. The jurisdictions also reported cost-savings, although such savings are not guaranteed outcomes.

San Francisco already has a means to measure the performance of departments and has some accountability measures, such as holding regularly scheduled public meetings and the annual budgeting process. A statistics based performance management system similar to CitiStat, however, will shift the culture and environment of the departments to a more performance and outcomes orientation.

CitiStat is a fundamentally different approach to performance management as it requires department heads and representatives to track, explain, and develop strategies to tackle real-time fluctuations in selected performance indicators. Technology tools allow the process to occur continuously based on customer need and immediate performance rather than once a year for budget purposes. Finally, an approach similar to CitiStat requires effective leadership to ensure that departments are held accountable for performance.

### RECOMMENDATIONS

Due to current fiscal constraints it might be best that San Francisco implement a uniform and systematic method of reviewing the performance of city departments through bi-weekly or monthly performance meetings within departments and meetings with city officials. While this option will require a significant up-front investment in time, resources, and money, the cost-savings from introducing a more timely accountability mechanism into the management of departments may be significantly larger than the initial investment.

The costs of integrating several department databases into a common database, utilizing servers to transmit and consolidate data, and developing an application and web browser that makes data easily accessible and usable are not yet available as participating departments will have different needs. However, Department of Telecommunications and Information Services (DTIS) estimates that the time frame for developing a CitiStat mapping application based on existing infrastructure is approximately six months, not including process and management restructuring or complicated systems integration.<sup>xiv</sup>

In addition, the Legislative Analyst recommends that the Board of Supervisors may wish to consider hiring an internal or external organization to study the feasibility, cost, and time frame of adopting a uniform data management system and integrating the system with a centralized call center during better economic times.

## Appendix

Table 1. Performance management systems and accountability mechanisms in San Francisco and the four jurisdictions examined.

City	Customer Relationship Management (CRM) system	Online	Performance Management System	Participating departments	Meeting frequency	Costs <sup>xx</sup>
San Francisco	Decentralized; 63 departments operate one or more general information numbers.	Varies by department.	Office of the Controller and Office of the Budget Analyst; annual budget process.	All departments can be audited.	Varies by department.	Estimated costs vary by department.
San Francisco	SFBizInfo	Yes	"sfbizinfo"	6 agencies providing related services to the business community.	"sfbizinfo" core team: monthly. "sfbizinfo" contacts: quarterly.	N/A
Baltimore	"3-1-1" (CitiTrack)	Yes	CitiStat.	11	Bi-weekly and monthly with City officials	For CitiStat, \$420,000 start-up. For CRM ("CitiTrack"), \$2.5 million start up and \$4 million per year, of which \$90,000 a month to contract out call center
New York	"3-1-1"	Yes	CAPStat and Mayor's Management Reports.	40 participate in Mayor's Management Reports, and of these, 20 present data in CapStat.	Weekly, bi-weekly, monthly, or quarterly within department s	\$25 million for the CRM system. <sup>xvi</sup> Costs of CapStat are unavailable.
Chicago	"3-1-1"/CSR/SunTrack	Yes	CSR/SunTrack	All departments.	Frequently with Director of City Services and within department s	\$8 million for the CSR system
Phoenix	N/A, web-based system accessible from public workstations	Yes	N/A.	All departments.	Weekly, bi-weekly, monthly, or quarterly within department s	N/A

## Appendix

Table 2. Page 1 of 16 from Baltimore's Department of Public Works – Water and Wastewater, May24, 2003 through June 6, 2003.

MRE/WBE EXPENDITURES										
EXPENDITURE TYPE	CURRENTLY AVAILABLE PERIOD (5/24/03-6/6/03)				YEAR-TO-DATE					
	Expenditures	MRE	%	WBE	%	Expenditures	MRE	%	WBE	%
Architectural and Engineering	\$50,000	\$75,600	151%	\$25,000	50%	\$53,148.00	\$7,841,750	16.9%	\$1,013,433	4.2%
Construction	\$0	\$0	0%	\$0	0%	\$45,202,701	\$7,126,355	15.8%	\$1,114,665	2.0%
Direct Payment Orders	\$57,030	\$483	0.8%	\$33,034	6.8%	\$1,132,880	\$23,657	2.1%	\$118,323	10.4%
Purchase Orders	\$0	\$0	0%	\$0	0%	\$10,104,599	\$2,402,540	23.8%	\$768,521	7.8%
Professional Services	\$0	\$0	0%	\$0	0%	\$70,584,197	\$13,479,311	16.9%	\$1,235,355	4.1%
Totals	\$87,030	\$75,483	135%	\$38,034	53%	\$10,104,599	\$2,402,540	23.8%	\$768,521	7.8%

PERSONNEL DATA										
	2 WEEK PAYROLL PERIOD				% CHANGE	YEAR-TO-DATE				
	4/12-4/18	4/19-5/06	5/16-5/23	5/24-6/03		Average	Minimum	Maximum	Total	Periods
OVERTIME (HOURS)	1150.50	1021.60	8790.30	10575.30	21.5%	8,458	3.801	29,720	69,683	77
Administration	2.00	3.00	2.00	6.00	2.01%	3	-	15	230	76
Engineering	0.00	0.00	0.00	0.00	-	7	-	65	530	76
Maintenance	9345.00	8557.50	7053.30	7218.20	-2.3%	6,587	2,050	24,333	408,100	77
Environ. Services	926.50	616.30	576.00	1791.00	21.1%	601	327	2,970	69,400	76
W.W. Facilities	800.00	166.30	314.00	1137.50	2.01%	712	120	3,094	54,704	77
County Mgmt	301.00	738.00	252.50	291.50	11.5%	185	40	431	114,300	76
Revenue Mgmt	108.00	311.50	60.50	137.50	51.9%	203	-	3,460	22,857	76
UNCHEDULED LEAVE	252.00	251.00	347.70	271.30	0.9%	315	202	840	21,540	77
Administration	0.00	0.00	0.00	1.00	-	1	-	6	40	76
Engineering	0.00	0.00	0.00	0.00	-	4	-	47	313	76
Maintenance	60.50	91.40	88.50	83.40	(5.8%)	111	55	318	8,664	76
Environ. Services	28.00	51.00	21.40	33.00	61.8%	49	14	154	3,375	76
W.W. Facilities	101.10	104.10	138.00	134.90	13.6%	126	61	272	9,733	77
County Mgmt	11.00	1.00	0.00	3.00	-	3	-	18	160	76
Revenue Mgmt	14.00	27.50	20.00	16.00	(20.0%)	23	4	61	1,793	76
*A* TIME(MAN-DAYS)	148.10	138.50	204.00	204.00	-	958	87	946	24,087	77
Administration	0.00	0.00	0.00	0.00	-	0	-	1	1	77
Engineering	2.50	1.50	0.00	0.00	-	6	-	10	85	77
Maintenance	66.00	83.00	82.00	79.50	(3.0%)	156	24	420	11,908	77
Environ. Services	31.50	36.00	35.00	33.50	(2.4%)	40	-	105	3,101	77
W.W. Facilities	35.00	48.00	65.00	72.00	5.0%	108	25	237	8,114	77
County Mgmt	0.00	0.00	0.00	0.00	-	0	-	10	28	77
Revenue Mgmt	17.00	10.00	10.00	10.00	-	12	-	40	1,064	77
EIGHT FIFTY (MAN-DAYS)	318.00	355.50	341.00	330.00	(3.2%)	220	110	265	6,295	74
Administration	0.00	0.00	0.00	0.00	-	-	-	-	-	74
Engineering	0.00	0.50	0.00	0.00	-	1	-	6	52	74
Maintenance	157.00	160.00	156.00	181.00	(6.1%)	113	18	237	8,354	74
Environ. Services	36.00	45.00	38.00	36.00	(5.3%)	19	-	62	1,410	74
W.W. Facilities	100.00	117.00	127.00	95.00	(25.2%)	86	53	176	6,385	74
County Mgmt	0.00	0.00	0.00	0.00	-	0	-	8	15	74
Revenue Mgmt	14.00	20.00	20.00	18.00	(10.0%)	2	-	20	115	74

## References

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- <sup>i</sup> J. Kost, "Performance-Driven E-Government and CRM," Gartner Research, September 18, 2003.
- <sup>ii</sup> Ibid.
- <sup>iii</sup> Anne Jenkins, Office of the Controller, email, 10/10/2003.
- <sup>iv</sup> Ibid.
- <sup>v</sup> H. Seick, DTIS Telecommunications & Policy Advisor, email, 10/16/2003.
- <sup>vi</sup> H. Seick, DTIS Telecommunications & Policy Advisor, meeting, 9/26/2003.
- <sup>vii</sup> Elliot Schlanger, Baltimore Chief Information Officer, phone interview 9/25/2003.
- <sup>viii</sup> Ibid.
- <sup>ix</sup> CapStat information is available at the following website:  
[http://www.nyc.gov/portal/index.jsp?catID=1724&pageID=nyc\\_stat\\_reports&981pg=2&981sz=10](http://www.nyc.gov/portal/index.jsp?catID=1724&pageID=nyc_stat_reports&981pg=2&981sz=10)
- <sup>x</sup> "Welfare Peer Technical Assistance Network: New York City Site Visit, JobStat: Using Data to Achieve Outcomes," Dec. 12-13, 2002, available at: [www.calib.com/peerta](http://www.calib.com/peerta)
- <sup>xi</sup> H. Seick, email, 10/16/2003.
- <sup>xii</sup> Theodore O'Keefe, Director of City Services, phone interview, 9/30/2003.
- <sup>xiii</sup> Steve MacFarlane, Director of Planning and Policy, City of Phoenix Human Services Department, phone interview, 9/22/2003.
- <sup>xiv</sup> H. Seick, meeting, 9/26/2003.
- <sup>xv</sup> Cost information is not available for New York, Chicago, and Phoenix because those cities implemented performance measurement tools incrementally from 10 to 3 years.
- <sup>xvi</sup> Annette Hines, Deputy Commissioner 3-1-1, phone interview, 9/22/2003.







(OLA # 030-03)

## DRAFT-- LEGISLATIVE ANALYST REPORT

To: Members of the Board of Supervisors  
From: Adam Van de Water, Office of the Legislative Analyst  
Date: December 22, 2003

DOCUMENTS DEPT.

FEB 25 2004

RE: Foster Care (File # 031413)

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### SUMMARY AND SCOPE OF REQUEST

Supervisor Maxwell requested that the Office of the Legislative Analyst (OLA) research successful foster care system models in municipalities similar to San Francisco particularly identifying incentives and support programs that have proven successful for foster parents. The report should also examine the scope of services provided, the number of children/youth served, and the cost of funding resources for such programs.

### EXECUTIVE SUMMARY

The number of foster children in the San Francisco foster system has remained stable at approximately 2,400. However, increasingly complex foster children needs coupled with the reality of small homes, high costs of living, and fewer families in San Francisco, continue to challenge the Family and Children Services (FCS) division's ability to recruit and retain qualified foster parents. FCS is currently revising its recruitment strategy to better align with national research that promotes targeted research over more traditional forms of general recruitment and retention. This presents an opportunity to review recruitment and retention efforts in other jurisdictions to help guide this process.

The Office of the Legislative Analyst surveyed foster programs across California and the nation and interviewed the FCS division in search of innovative ideas to promote foster parenting in San Francisco. The result was a series of five recommendations to improve foster parent recruitment and six recommendations to improve retention. All of the recommendations are offered in recognition of the current state of the city's budget and therefore can be implemented by the Board or the division without significant changes in staffing or organization.

Recommendations range from simple but effective outreach, access, communication, technical assistance, community services, and acknowledgment strategies to more difficult questions of funding, performance measurement, housing, and childcare. These recommendations are offered for the Board's consideration.

## BACKGROUND

The Department of Human Services' Family and Children Services (FCS) division provides services designed to protect children from abuse, neglect, exploitation or abandonment. If their safety demands that a child must be removed from their home, FCS works with parents and the court system to make the home safe and to reunify the family, meanwhile assuring that the child's needs are met through foster care or with relatives who agree to be caregivers. For their part, foster parents agree to perform all the functions of birth parents while the child is in their care, including meeting the child's health, school and parental guidance needs. The foster care system pays basic health care costs through Medi-Cal, provides licensed foster parents with reimbursement for childcare, and provides living expense stipends to foster parents. Stipends range from approximately \$400/month up to approximately \$1,000/month depending on the age and special needs of the foster child.

In May 2003 there were 2,399 children in the San Francisco foster care system, or approximately two percent of all San Francisco children. This is expected to decline in coming years as large numbers of teenage foster children 'emancipate' from eligibility at age 18<sup>1</sup>. Foster children are placed with relatives (48%)<sup>2</sup>, out of family (46%), or are on court probation within their own homes (6%). Nearly three in four foster children are African-American (72%, though the percentage of new African-American enrollees has declined), nearly half are placed outside of San Francisco (48%)<sup>3</sup>, and FCS estimates that over 80 percent are abused and neglected due to parental substance abuse.

While the goal at FCS is to reunite children with their parent or guardian once it is deemed safe, less than half of the approximately 85 foster cases closed per month (123 of the 270 cases closed from March to May 2003) result in reunification. The remaining 147 cases were closed for court-ordered termination (24%), adoption (12%), 'emancipation' (6%), or other reasons (12%).

## RECRUITMENT

One of the many difficulties of providing foster care is the recruitment and retention of foster parents. This is especially true in San Francisco, where the demographics (fewer families, more single adults, smaller living quarters, and a higher cost of living) hinder traditional foster parent recruitment efforts. However, the challenge of recruitment is by no means unique to San Francisco. Nationwide, foster parent recruitment is hampered by:

- the complexity of problems faced by foster children entering the system who, according to the U.S. Department of Health and Human Services (HHS), are more likely to be older and have more mental, physical and emotional challenges than foster children in the past,<sup>4</sup>

<sup>1</sup> 12/19/03 telephone interview with Dan Kelly, San Francisco Department of Human Services.

<sup>2</sup> DHS has made it an explicit policy to emphasize placement with relatives to reduce the child's trauma, build on the strengths of extended families, and minimize the number of placement moves a child has to endure.

<sup>3</sup> FCS staff explains that the City's relatively high out-of-county placement rate is due to an emphasis on placement with family as well as the small geographic area of San Francisco.

<sup>4</sup> "Recruiting Foster Parents." U.S. Department of Health and Human Services, Office of the Inspector General. Janet Rehnquist, May 2002.

- foster parent anxiety and uncertainty, particularly as they relate to length of placement, interaction with the biological family, and expectations for the child's future,
- lack of adequate funding for support, training, respite care, and social workers, and
- publicity of the foster care system that all too often emphasizes scandals over successes.

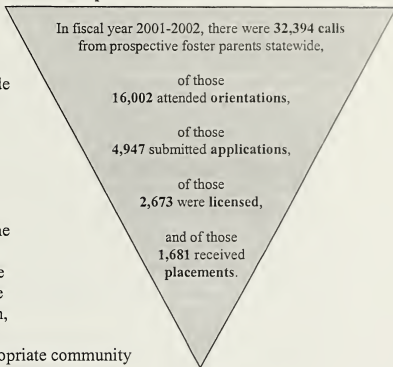
These challenges help to explain why, according to the state Department of Social Services, only approximately five percent of those prospective foster parents who initiate contact with their county foster program statewide receive foster child placement (see Graph I at right)<sup>5</sup>.

In an effort to improve the effectiveness of recruitment, foster associations have begun to recreate their foster systems to be more family, neighborhood, and culturally focused. One of the larger such efforts is the Annie E. Casey Foundation's national *Family to Family* Initiative (F2F) launched in 1992. According to F2F, there are three kinds of recruitment: general (television, radio, billboards, booths, and fairs), targeted (matching child demographics and needs to appropriate community outlets), and child-specific (seeking specific friends, relatives, or individuals capable of meeting a child's special needs). F2F recommends counties "use all three kinds of recruitment techniques, but stress and invest in the targeted approach" by allocating "perhaps 60 percent of the agency recruitment budget" to it.

Over the last few years, FCS has worked with the F2F Initiative to transition away from general recruitment and toward more targeted and child-specific recruitment programs. According to David Turk, FCS Operations Section Manager, FCS is currently in the process of developing a more comprehensive recruitment strategy consistent with these goals. FCS already produces quarterly reports with excellent demographic data on the foster care system that is then used to target efforts to specific neighborhoods, organizations, and individuals. The Stuart Foundation has also provided support to target recruitment within the faith-based community in southeastern San Francisco where fully one-third of all citywide foster children originate.

HHS uncovered two innovative techniques in a

#### Graph I: Foster Parent Recruitment



*"In every focus group conducted [25 in 5 states], both child welfare staff and foster parents said that it was not the billboards, television advertisements, public service announcements, or event booths that inspired people to become foster parents. Both said that foster parents themselves are a highly effective and valuable tool in encouraging others to pursue fostering."*

-- Department of Health and Human Services'  
Office of the Inspector General, May 2002

<sup>5</sup> "Foster and Adoptive Parent Recruitment, Training and Retention Annual Report." California Department of Social Services. August 2003.

nationwide survey of state foster parent recruitment efforts. They found one state that pays foster parents \$10 per hour to staff foster parent event booths and another that provides them with \$300 stipends for each successful foster parent referral. These low-cost recruitment methods could replace portions of the more expensive and less effective methods of advertising in major television and radio outlets.

However, there are a number of steps that FCS and the Board could take to further improve recruitment of foster parents in San Francisco.

### RECOMMENDATIONS TO IMPROVE RECRUITMENT

Some actions the Board may wish to consider taking to support foster parent recruitment include:

1. **Access** – Helping to identify and provide access to community-based organizations (CBOs) and civic groups – particularly in the Bayview/Hunter's Point and Mission neighborhoods where the need for foster parents is greatest.
2. **Outreach** – Utilizing techniques proven effective in other California counties such as encouraging referrals from other foster parents (as indicated by Mr. Turk, "the best recruiter is a happy foster parent"), discussing foster care opportunities in community meetings, and/or posting information on specific children in need of foster homes.
3. **Funding** – Providing recruitment funds to pay foster parents hourly rates to attend orientations, trainings, and events or moderate stipends for every successful foster parent referral. The Board may also wish to pass a resolution encouraging DHS to quickly fill the second training position vacated by a retirement earlier this year.
4. **Technical Assistance** – Providing in-kind technical assistance and mediation to two existing nonprofit foster parent associations in San Francisco struggling to establish rules of procedure, ethics, and organizational structure.
5. **Performance Measurement** – Working with FCS and the Controller's Office to develop benchmarks and goals to assess the effectiveness of different recruitment techniques.

### RETENTION

Once foster parents have been identified and trained, however, it is often difficult to keep them actively engaged in the foster care system. According to the National Foster Parent Association, "as many as 60 percent of new foster parents quit in the first 12 months – and the primary reason they give is lack of support, communication, or response from the foster care system."

Simple funding can go a long way to aid foster parent retention efforts. In Oregon, the State Children's Services Division conducted a study of 72 foster families in order to determine the effects of enhanced support and training of foster parents on retention and outcomes for children. They divided the participating families into three groups: Group 1 received enhanced support and

training plus an increased payment of \$70/month; Group 2 received the \$70 but did not receive the increase in services; and Group 3 received no extra support.

Compared to the state average of 40 percent discontinuation of care, the results reflect the positive effect of additional support (training, money, and other services) on foster parent retention. Of participating families, 9.6 percent of Group 1, 14.3 percent of Group 2, and 25.9 percent of Group 3 discontinued care.

In addition to providing financial support, foster parents need resources and recognition to keep involved. In Los Angeles County, the Children and Family Services Division partners with area community colleges to provide continuing education to foster parents, 99 percent of which, according to Shirley McNeal, are provided for free. The County also regularly provides special "Angel Heart" recognition to foster parents in each of Los Angeles County's twelve districts.

In San Rafael in Marin County, Full Circle Program psychologists use a new technique called "parent-child interaction therapy" to teach parents how to be more supportive and encouraging. County family and child psychologists observe parents interacting with their children from behind a one-way glass mirror and coach them via hidden transceivers in the parent's ear.

FCS currently provides several resources for foster parents and relatives including:

- market rate reimbursement for child care (San Francisco is one of only a few counties that provide child care and is the only county to provide this benefit to relatives as well as foster parents<sup>6</sup>),
- up to 20 hours per month of respite care,
- continuing education and training programs,
- annual recognition of foster parents in May,
- reimbursement for incidental repairs such as damage to furniture caused by the foster child, and
- the Foster Parent Resource Room at 3801 3<sup>rd</sup> Street.

### **RECOMMENDATIONS TO IMPROVE RETENTION**

Some actions the Board may wish to consider taking to support foster parent retention include:

1. **Communication** – Ensuring better communication between and among caseworkers and foster parents by, a) establishing a mentoring program for new foster parents to be paired with those with more experience, and b) implementing the lessons learned from a spring 2003 foster parent survey and an anticipated February retreat between caseworkers and foster parents.
2. **Acknowledgement** – Attending and supporting the annual foster parent dinner in May, hosting dedicated events for foster children and their foster parents, and recognizing and commending outstanding foster parents and caseworkers for their contributions to the community on a monthly rather than an annual basis. This could include a foster parent or

<sup>6</sup> Meeting with David Turk, FCS Section Manager, November 21, 2003.



caseworker of the month program, a foster parent mentorship program, prizes donated by the City or local businesses, or other low-cost means of improving foster parent morale.

3. **Childcare** – Providing childcare to unlicensed potential foster parents as they attend the initial orientation, complete the training courses<sup>7</sup>, and/or attend foster parent events.
4. **Funding** – Increasing funding, staff, and/or hours of the respite program (providing foster parents with up to 20 hours of free childcare per month) and the foster parent resource room, advocating for increased foster parent payments from the state, and/or establishing a City-run liability insurance program to protect foster parents from catastrophic events.
5. **Housing** – Providing housing incentives to licensed foster parents such as a) subsidized rents on Treasure Island or at the Presidio, or b) establishing criteria with the San Francisco Housing Authority to prevent moving foster parents in public housing into smaller units if they do not have a foster placement at the time of the Authority's semi-annual census.
6. **Community Services** – Exploring interactions with day care providers, CBOs, schools, and Big Brother/Big Sister programs to support foster parents with after school programs, day care, tutoring, mentoring, or other services for foster children. The Board could also provide reduced cost or free access to parks, MUNI, and other city activities for foster children and their foster parents.

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<sup>7</sup> Either eight, three-hour weeknights or five Saturdays.



OLA#: 027-03

**LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Amanda Kahn, Office of the Legislative Analyst  
DATE: December 22, 2003  
SUBJECT: Status of Youth Employment Efforts (File # 031414)

Government Information Center  
Main Library  
5<sup>th</sup> Floor, 100 Larkin Street

**SUMMARY OF REQUESTED ACTION**

A motion (sponsored by Supervisor Newsom) requested that the Office of the Legislative Analyst (OLA) research youth employment efforts in San Francisco and analyze how different departments and agencies collaborate to provide local youth employment resources and to leverage new State, federal or private resources.

**EXECUTIVE SUMMARY**

According to the Every Child Can Learn Foundation (ECCLF), approximately \$20 million dollars is spent annually on youth employment, job training, career development and workforce preparation initiatives for young people in San Francisco. Furthermore, San Francisco's Department of Children Youth and Families (DCYF) has identified Youth Employment as a major focus of planning efforts based on the belief that "employment offers young people leadership and skill-building opportunities, positive alternatives and other vehicles to explore and contribute to the vitality of San Francisco."<sup>1</sup>

However, while funding levels have remained high, San Francisco struggles to create lasting public/private partnerships to ensure the strategic and successful investment in youth employment opportunities. The recent efforts of the Youth Employment Coordination Project, a collaboration of DCYF, the Private Industry Council (PIC), the San Francisco Unified School District (SFUSD), the San Francisco School to Career Partnership (SFSTCP), and the ECCLF, is promising. The group has undertaken a resource mapping project, and has invited all partners in the youth employment sectors, including funding agencies, service providers, the private sector, educators, and youth to participate in future planning efforts.

San Francisco should look to Boston as a strong example of the benefits of creating strong public/private coalitions with the power to make substantive changes for the outcomes of youth in this City.

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<sup>1</sup> www.dcyf.org

## BACKGROUND

San Francisco's Department of Children Youth and Families (DCYF) has identified Youth Employment as a major focus of planning efforts based on the belief that "employment offers young people leadership and skill-building opportunities, positive alternatives and other vehicles to explore and contribute to the vitality of San Francisco."<sup>2</sup>

Aside from the benefit to youth on the individual level, youth employment is also an important part of the labor economy. For example, young workers make up more than 60 percent of the service sector nationwide.<sup>3</sup> However, despite common perception of young workers as high-school students seeking supplemental disposable income, particularly in a city like San Francisco that has a relatively high cost of living, young workers need the income to survive.

One's age can often be an impediment to securing and retaining employment, regardless of wage. According to a report sponsored by the Wage Resource Center, workers ages 16-24 are six times as likely as older workers to be unemployed, and are more likely to be laid off than older workers.<sup>4</sup> Tough economic times often hit young workers most severely. The 2001 recession and the jobless recovery that followed had its greatest impact on young people. According to a recent study by Northeastern University's Center for Labor Market Studies, youth are being hardest hit by the current declining economy<sup>5</sup>. In the last year and a half, young adults (ages 16-24) represented 53 percent of the total job losses among all U.S. adults despite the fact that they only represent approximately 15% of the working population.

### DCYF Children's Services Allocation Plan

As part of a multiyear planning process mandated by the Children's Amendment, passed by voters in 2000, DCYF was required to conduct a citywide planning process. The first phase of this planning process was completed in 2002, with the Community Needs Assessment Report. The next step in the planning process is the Allocation plan, which is intended to guide DCYF's disbursement of the Children's Fund. According to the draft CSAP, "this report is the first time the city's total investment in young people has been presented in one place, enabling DCYF and the community at large to see how the Children's Fund fits into the larger picture of children's services and systems in San Francisco."

CSAP identified four subgoals for the Children's Fund. One benchmark under Goal Four, "Children and Youth Contribute to the Growth, Development, and Vitality of San Francisco," is that "All 14-to-17-year-olds who want and need youth employment opportunities are able to attain them." The CSAP identifies that 15% of the Fund will be allocated to this end, in addition to general fund spending of \$1,665,000 for the Mayors Youth Employment and Education Program (MYEEP) and YouthWorks.

Following the approval of the CSAP by the Board of Supervisors on December 16, 2003, DCYF will now implement phase three of the planning process, with the release of a Request for Proposals (RFP) in 2004. In 2005, DCYF will begin granting funds based on this planning process, drawing in part from a multiyear data evaluating the effectiveness of current programs.

<sup>2</sup> [www.dcyf.org](http://www.dcyf.org)

<sup>3</sup> Malkia Amala Cyril, "Young People and Decent Wages." From: Trends in the Living Wage Movement." Wage Resource Center, ACORN.

<sup>4</sup> Young Workers Project of San Francisco, as part of: Trends in the Living Wage Movement." Wage Resource Center, ACORN.

<sup>5</sup> "Leaving Young Workers Behind" Center for Labor Market Studies at Northeastern University on behalf of the National League of Cities (2003).

## YOUTH EMPLOYMENT PROGRAMS IN SAN FRANCISCO

According to the Every Child Can Learn Foundation, approximately \$20 million dollars is spent annually on youth employment, job training, career development and workforce preparation initiatives for young people in San Francisco. DCYF is the major youth employment funder in CCSF through the Children's Fund and general fund spending.

The second largest investor is the Private Industry Council (PIC) who disseminates federal funding through two different initiatives. The first is YO!SF (Youth Opportunities San Francisco), which is a 5-year federal investment awarded to 20-30 communities nationwide. The program provides \$28 million over 5 years for youth in Enterprise Zone Communities—Bayview Hunter's Point, Visitacion Valley, South of Market, and the Mission District. The program is currently in its fourth year. PIC also distributes \$1.7 million annually to citywide employment and training programs for low-income youth.

## CHALLENGES TO YOUTH EMPLOYMENT PROGRAMS

The \$20 million spent in San Francisco on youth employment is a large amount of funding given the relatively small number of young people in San Francisco (approximately 32,000 ages 14-18 years; approximately 50,000 age 14-21). According to Rick Bond, Program Officer at DCYF, the struggle in San Francisco is to coordinate the wealth of opportunities to ensure that funding is strategic and meets the needs of a diverse set of youth.

According to Glenn Eagleson, a consultant hired to lead the forthcoming Youth Employment Resource Mapping Project, other communities are more advanced in coordinating schools, private industry, and government to provide youth employment opportunities. Though San Francisco historically has had good partnerships, in the last 3-4 years these relationships have not been sustained. Mr. Eagleson attributes this breakdown to the poor economy, and various leadership changes. For example, the Jobs for Youth program, which was a collaborative consisting of the Chamber of Commerce, Small Business Network, PIC, community based service providers and the Employment Development Department, used to provide 1000-1500 jobs for youth each year. San Francisco's "Say YES" (Youth Employment for the Summer) campaigns benefited from strong leadership from both local government and the business community generating hundreds of additional opportunities for youth during the summer. These initiatives no longer exist due to a string of leadership changes. According to Mr. Eagleson, "San Francisco doesn't have any kind of coordinated plan or message to the business and foundation community."

Various initiatives have been implemented to attempt to better coordinate and align the myriad of resources and opportunities that exist to prepare San Francisco's young people for the workplace including the Charles Schwab & Company resource mapping, the San Francisco Unified School District School-to-Career planning efforts, and ConnectSF. In addition, the San Francisco Youth Employment Coalition, a group of services providers and agencies, meets monthly to share best practices, resources, etc. This is the longest running program of its kind in the country. The group has between 50 and 60 members.

However, none of these programs alone has been able to successfully coordinate all youth employment funders and providers to create a "map" of the programs, funding streams and activities that come from the workforce preparation system in San Francisco. There has also never been a coordinated effort to create common language,

application standards, or evaluation procedures. In an effort to fill this gap, DCYF, PIC, SFUSD and SFSTCP formed the Youth Employment Coordination Project. The partners of this group meet monthly, and currently include Cedric Yap from DCYF, Bob Schwab from PIC, Bea Harris from SFSTCP, Marigrace Cohen from SFUSD, and Dana Serleth from ECCLF. Last winter, the group funded a resource mapping project to identify all existing youth employment activity in the City, and to make recommendations for future investment. They hired Glenn Eagleson, a consultant, to write a final report. This report is expected to be released in late December 2003.

In June, 2003, the group hosted a conference for youth employment program staff, young people, employers and school district employees in San Francisco. They had 160 people in attendance. Currently, they are working to align processes for the upcoming DCYF and PIC Request for Proposals (RFP). The goal is to share goals and objectives for funding, and to do a joint review and recommendation for funding process. The group is also creating common quality standards for youth employment programs to be implemented with the beginning of the new funding cycle in July, 2004.

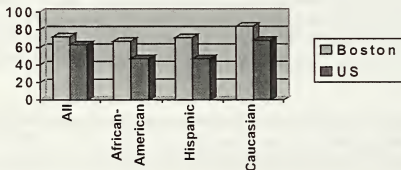
The group also hosts quarterly "Allies Dialogues" to share practices across the funding/service provider communities.

### THE BOSTON EXAMPLE

According to Mr. Eagleson, the Boston PIC is one of the leaders in the field of developing public/private partnerships to create youth employment opportunities. One of Boston's hallmark achievements is the Boston Compact, a unique collaborative agreement between Boston's employers, schools of higher education, the Mayor, the Boston Public Schools, the teachers union and other community partners to improve the schools in the city of Boston and to provide college and career opportunities to its students. The original Boston Compact was signed in 1982. According to Cathy Minehan, President of the Federal Reserve Bank of Boston, the Boston Compact "grew out of the recognition that the critical issues facing Boston could not be addressed effectively without a successful public school system."

The Boston Compact created a system of mutual accountability whereby the business community committed summer jobs and priority hiring to Boston Public School students; higher education pledged scholarships and priority admission for Boston graduates; and, in turn, the Boston schools committed to improve educational quality for its students, as measured by test scores, attendance, and a reduced dropout.

**% High School Graduates Employed**



The results of the Boston Compact are striking. A study by Professor Andrew Sum, of the Center for Labor Market Studies at Northeastern University, shows that 72% of Boston graduates who were not enrolled in college were employed, compared with only 63% nationwide. African-American graduates were employed at a rate of 67%, compared with 47%. Hispanic students in Boston were employed at a rate of 71%, compared with 47% nationwide.



The relationships created through the Boston Compact have also led to increased funding for local youth employment programs. In 1997, the Boston PIC, along with other local workforce boards and the state's School-to-Work Office petitioned the legislature to fund the cost of activities that link school and work-based learning opportunities for young people. This campaign resulted in a growing commitment from the state to a matching fund that allocates state dollars for connecting activities, based upon the amount of wages local employers pay to students in school-run, work-based learning programs. First funded at \$500,000 in 1997, partnerships in Boston now receive \$5 million from the state legislature.

### RECOMMENDATIONS

Glenn Eagleson, the consultant hired by the Youth Employment Coordination Project is in the process of finishing his report on the current status of youth employment efforts in San Francisco, as well as making a series of recommendations to the partnership for future efforts. Though the final report was not available at the time of the publication of this report, Mr. Eagleson reports that one of his main recommendations for the San Francisco's youth employment providers is to model their partnership as a local intermediary network to ensure lasting success of their efforts.

According to the Intermediary Network, a national association of leading education and workforce development organizations working in local communities to ensure the success of youth., local intermediary organizations "bring together diverse constituencies to increase public involvement, launch new initiatives, strengthen local institutions, and achieve tangible results."<sup>6</sup> The four functions of local intermediary organizations are to:

- Engage, convene, and support critical constituencies
- Promote quality standards and accountability
- Broker and leverage resources
- Promote effective policy.

The Office of the Legislative Analyst recommends that the Board of Supervisors review Mr. Eagleson's report for further recommendations and analysis.

### CONCLUSION

There is a clear commitment to providing much needed employment opportunities to youth in San Francisco, as well as recognition for the need for greater coordination of these efforts. DCYF, PIC, and all other partners in the Youth Employment Coordination Project appear to be working diligently to ensure that future funding is strategic and that outcomes are measured to ensure that programs meet expectations. The greatest struggle for these agencies appears to be the need for consistency and commitment of high-level stakeholders. San Francisco should look to Boston as a strong example of the benefits of creating strong public/private coalitions with the power to make substantive changes for the outcomes of youth in this City.

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<sup>6</sup> [www.intermediarynetwork.org](http://www.intermediarynetwork.org)



The first part of the report deals with the general situation of the country. It is a very interesting and informative study of the country's development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's development.

The second part of the report deals with the economic situation of the country. It is a very interesting and informative study of the country's economic development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's economic development.

The third part of the report deals with the social situation of the country. It is a very interesting and informative study of the country's social development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's social development.



OLA #002-03

## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Office of the Legislative Analyst (OLA)  
DATE: January 22, 2004  
SUBJECT: San Francisco's Digital Divide (File No. 03007)

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### SUMMARY OF REQUESTED ACTION

Motion (introduced by Supervisor Daly) requesting the OLA update File No. 011590 (dated November 29, 2001) regarding the digital divide with specific emphasis on the City and County of San Francisco's progress in addressing the digital divide.

### EXECUTIVE SUMMARY

The term "digital divide" generally refers to the separation between those who have access to computers, the Internet and other technologies and those who do not. The following summarizes the key findings of various governmental and non-governmental studies regarding the digital divide.

#### **Public Policy Institute of California (PPIC) Survey – September 1999 through January 2001**

- More than three fourths of all Californians (76%) say they use computers, and more than half (65%) say they use the Internet.
- Asians lead other racial/ethnic groups in the State in computer (91%) and Internet (83%) use. Latinos are much less likely than other racial/ethnic groups to use computers (65%) and the Internet (47%).
- Residents in the San Francisco Bay Area are more likely to use computers (82%) and the Internet (73%) than other Californians.

#### **California Technology Assistance Project (CTAP) – June 2000**

- The number of K-12 students to computers in San Francisco (about 6:1) is smaller than the statewide average (about 7:1).

- Schools in San Francisco are slightly more connected to the Internet (81%) than the statewide average (80%).

### **Controller's Office - 2002 Citizen Survey**

- More than three fourths (76%) of all San Franciscans say they have access to the Internet at home, work or other place.
- Respondents in Districts 7 and 8 are more likely than other San Franciscans to say they have Internet access (both at 85%). Districts 3, 10 and 11 respondents reported the smallest percentages of Internet access in the City (62%, 69% and 66% respectively).

### **San Francisco's Public Libraries and Schools**

Apart from these published studies, the OLA analyzed the extent of the digital divide in San Francisco's libraries and schools. The following summarizes our findings.

- Of the Public Library's 470 computers, 191 are located at the Main Library and 279 are dispersed across 26 branch libraries. The total number has increased by 150% since November 2001 (the date of the previous OLA report). Three hundred, or about 64%, of the Library's computers have Internet access. One hundred and thirty-nine (139) of these computers, or about 46%, are located at the Main Library.
- The digital divide is widest at the lowest school levels. Thirty percent (30%) of elementary school classrooms have not yet been connected to the Internet, while the average student/computer ratio at middle schools is 15:1.<sup>1</sup>

### **METHODOLOGY**

*No single source of demographic information on the digital divide exists. Instead various governmental and non-governmental studies have attempted to gauge the expanse of the digital divide using different methods. For brief descriptions of these studies, see the footnote sections this report. Further complicating any analysis of the digital divide is the fact that these studies are not cross-referenced with one another (indeed they were not created for this purpose) and thus comparisons among them are difficult to make. Nevertheless, whenever it was appropriate to compare these studies the OLA has done so.*

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<sup>1</sup> The previous OLA report (dated November 29, 2001) addressed the digital divide in San Francisco's public libraries, but not schools. Therefore, with respect to schools, we had no previous data to compare. As such, the digital divide in public schools is examined for the first time in this report.

### SUMMARY OF PRIOR STUDIES

The following section summarizes the key findings of various federal, state and local studies on the digital divide in California.

#### **PPIC Survey<sup>2</sup>**

- Asians lead all other racial/ethnic groups in computer (91%) and Internet (83%) use.
- Latinos are much less likely than all other racial/ethnic groups to use computers (65%) and the Internet (47%).
- Blacks are similar to all Californians when it comes to using computers (76%) and the Internet (62%).

**Table 1**

<b>Race/Ethnicity</b>	<b>Use Computer</b>	<b>Use Internet</b>
All Californians	76%	65%
Non-Hispanic Whites	79%	70%
Asians	91%	83%
Blacks	76%	62%
Latinos	65%	47%

All racial and ethnic groups in California are more likely to use computers and the Internet than their counterparts at the national level.<sup>3</sup> Notably, the PPIC surveyed individuals while the Commerce Department surveyed entire households. In addition, these surveys asked slightly different questions about computer and Internet usage. Any conclusions should therefore be drawn tentatively.

<sup>2</sup> *California's Digital Divide* prepared by the Public Policy Institute of California (PPIC). This is compilation of eight PPIC Statewide Surveys conducted between September 1999 and January 2001 and includes data from 15,941 adult California residents.

<sup>3</sup> *Falling through the Net: Toward Digital Inclusion, A Report on America's Access to Technology Tools*, October 2000 prepared by the U.S. Department of Commerce, National Telecommunications and Information Administration (NTIA).

# PPIC Survey continued

- Residents in the San Francisco Bay Area are more likely to use computers (82%) and the Internet (73%) than other Californians.

Table 2

Region	Use Computer	Use Internet
San Francisco Bay Area	82%	73%
Los Angeles County	74%	61%
Southern California	76%	67%
Central Valley	73%	61%

- Computer and Internet usage appears to be positively correlated with Californians between 18 and 64 years of age, those with higher incomes and those more educated.

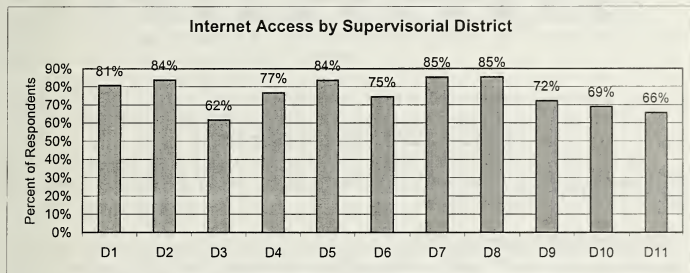
Table 3

Category	Use Computer	Use Internet
Age		
18-64	83%	71%
65+	39%	29%
Education		
High School or Less	56%	41%
Some College	81%	69%
College Graduate	89%	82%
Income		
Under \$20,000	48%	35%
\$20,000-\$59,000	76%	63%
\$60,000 and Above	93%	85%

### Controller's 2002 Citizen Survey<sup>4</sup>

- More than three fourths (76%) of all respondents have access to the Internet at home, work or other place.
- Respondents in Districts 7 and 8 are more likely than other San Franciscans to say they have Internet access (both at 85%). Districts 3, 10 and 11 respondents reported the smallest percentages of Internet access in the City (62%, 69% and 66% respectively).

**Table 4**



### California Technology Assistance Project (CTAP)<sup>5</sup>

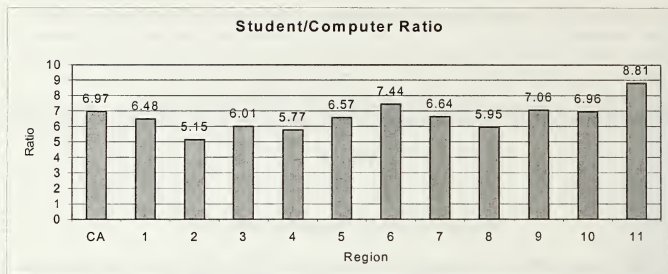
- Schools in Region 4, which includes San Francisco, are slightly more connected to the Internet (81%) than the statewide average (80%). For its analysis, the CTAP divided the State into eleven regions (see Appendix).
- The overall ratio of K-12 students to computers in Region 4 (5.77) is smaller than the statewide average (6.97).

<sup>4</sup> *Results of the 2002 Citizen Survey* prepared by the Controller's Performance Management Unit with assistance from the Public Research Institute of San Francisco State University. 1,544 citizens were asked about their Internet access.

<sup>5</sup> *California Technology Assistance Project (CTAP), Summary of Year 2000, Statewide School Survey Findings, June 2000* prepared by the California Department of Education and several of its affiliates. In 2000, CTAP surveyed a random sample of almost 2,500 public elementary, middle and high schools.



Table 5



#### SAN FRANCISCO'S LIBRARIES AND SCHOOLS

Apart from the above-noted studies, the OLA analyzed the extent of the digital divide in San Francisco's public libraries and schools.

#### **San Francisco Public Library (SFPL)<sup>6</sup>**

The request for this report specifically asked the OLA to update File No. 011590, dated November 29, 2001, regarding the digital divide. In that report, the OLA reported that the SFPL maintained a total of 188 computers, including 38 at the Main Library and 150 dispersed across 26 branch libraries.

In FY 02-03, the Library replaced all of its text-based terminals with PCs. Today, of the Library's 470 computers, 191 are located at the Main Library and 279 are dispersed across 26 branch libraries. To varying degrees, all of the Library's computers have access to a combination of programs including the Internet, word processing, an online catalog system or special educational software for children. The City Librarian advised the OLA that all computer services are free of charge.<sup>7</sup>

The Attachment, provided by the City Librarian, contains a breakdown of the number and location of the Library's computers, and includes information on their Internet and software capabilities.

<sup>6</sup> Information for this section is derived from several phone interviews with the Office of the City Librarian, August 2003.

<sup>7</sup> The Main Library and some branch libraries also offer free training workshops on computer and Internet usage. Class topics include but are not limited to Basic Mouse Skills, Introduction to the World Wide Web, Internet Tips and Tricks, and E-mail.

Accompanying the growth in the Library's computers, however, is the persistence of the digital divide. The City Librarian advises:

*"Based upon the large and diverse population served by the San Francisco Public Library, and the limited amount of square footage available in the 26 branch libraries and the Main Library that can be dedicated to public computer use, the Library projects that it will not, in the foreseeable future, be able to meet the needs for access to computers and the Internet that the residents of San Francisco want and deserve."*

The Library, nevertheless, has plans to reduce the digital divide. In November 2000, San Francisco voters passed Proposition A, the Branch Library Improvement Program, totaling \$105.9 million. Combined with other State and local, public and private fund sources this program will renovate 19 branch libraries, replace 4 leased facilities with City-owned branches and construct a new branch in Mission Bay.

As part of the planning to implement the program, the SFPL has solicited input from residents throughout the City at community meetings. Residents felt that the Library has an insufficient number of computers and space for books at branch libraries. According to the City Librarian, this input demands that the Library maintain a "reasonable balance" between computers and book space. Therefore, the Library will add more book space (whenever feasible) and about 120 computers to its branch libraries.

Computer and Internet usage at libraries is brisk. For instance, at the Main Library, there were 24,421 bookings (computer reservations) which accounted for about 17,008 computer-use hours during the month of July 2003 alone. However, whether current computer supplies are sufficient to meet user demands is uncertain. The Library intends to address this issue by asking patrons directly about their computer and Internet usage in its "annual user satisfaction survey." The latest survey was conducted in November 2003 and its results will be shared with the Board of Supervisors, according to the City Librarian.

### **San Francisco Unified School District (SFUSD)<sup>8</sup>**

The OLA report (dated November 29, 2001) did not address the digital divide in San Francisco's public schools. The following therefore is a preliminary look at this issue.

All of the District's 112 elementary, middle and high schools are currently connected to the District's Central Office and the Internet via a "T1" data communication line. However, only 85, or about 76%, have local area networks or "LANs" which connect individual classrooms to the Internet. The School District is in the process of installing LANs and electrical upgrades at the remaining schools and children centers.<sup>9</sup> The SFUSD intends to complete this work within

<sup>8</sup> Information for this section is derived from several phone interviews with SFUSD officials, August 2003.

<sup>9</sup> The children centers are infant/toddler, pre-kindergarten programs. They are primarily located at elementary schools and serve approximately 4,500 children per year. Currently, most of the centers use a computer with a dial-up modem to connect with the District's Central Office and the Internet.

the current fiscal year. The following table summarizes the work that has and has not yet been completed.

**Table 6**

<b>School Type</b>	<b># of Schools Completed</b>	<b># of Schools Not Completed</b>	<b>Total</b>
Children Center	0	15	15
Elementary	53	23	76
Middle	16	2	18
High	16	2	18
<b>Total</b>	<b>85</b>	<b>42</b>	<b>127</b>

The digital divide appears to be widest at the lower school levels. All children centers and 30% of elementary schools have not yet received network installations or electrical upgrades. The remaining work is proceeding relatively fast considering the fact the much of the wiring installed in schools has been done using volunteer labor and donated equipment, according to SFUSD officials.

#### **Students/Computer Ratios**

SFUSD also advised the OLA that the optimal ratio of students to computers is 5:1. This ratio is based on computers that are three years old or less. The following table summarizes average student/computer ratios in San Francisco schools. Notably, these "average ratios" include schools with computers that are more than three years old.

**Table 7**

<b>School Type</b>	<b>Average Ratio</b>
Elementary	13:1
Middle	15:1
High	6:1

Here, too, the digital divide appears to be widest at the lower school levels (elementary and middle schools). High schools have a student/computer ratio (6:1) comparable to the overall ratio in San Francisco (5.77:1) as reported by CTAP. SFUSD officials advised the OLA that California's Digital High School Grant enabled high schools to purchase and support updated computer equipment. However, due to the State's current budget crisis, these funds are no longer available. According to SFUSD officials, the digital divide among high schools may therefore begin to widen if alternative funds are not identified in the near future.

### CONCLUSION

Based on our literature review and interviews with several City officials, evidence exists to support the following conclusions:

- San Franciscans have relatively good access to computers and the Internet.
- Information on computer and Internet use by different race/ethnic groups in San Francisco is scarce.
- Residents in Supervisorial Districts 3, 10 and 11 are less likely than other San Franciscans to have Internet access.
- The City's Public Library appears to be meeting an unmet but not yet quantified need for computer and Internet services.
- In terms of computer availability and Internet connectivity, the digital divide appears to be widest at elementary and middle schools.

In closing, the Board of Supervisors may wish to schedule a hearing on how to best address the digital divide.

### APPENDIX

Region 1: Del Norte, Humboldt, Lake Mendocino, Sonoma; Region 2: Butte, Glen, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, Trinity; Region 3: Alpine, Colusa, El Dorado, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo, Yuba; Region 4: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Solano; Region 5: Monterey, San Benito, Santa Clara, Santa Cruz; Region 6: Amador, Calaveras, San Joaquin, Stanislaus, Tuolumne; Region 7: Fresno, Kings, Madera, Mariposa, Merced, Tulare; Region 8: Kern, San Luis Obispo, Santa Barbara; Ventura; Region 9: Imperial, Orange, San Diego; Region 10: Inyo, Mono, Riverside, San Bernardino; Region 11: Los Angeles.

	Internet Only	Internet & Office	Express Internet	Office Only	Catalog	EDC	Total
Main	70	15	14	2	38	12	151
Main Training Rm		40					40
ANZ	2	2	1		2	2	9
BAY	5	2	1		1	2	11
BHE	2	2	1		1		6
CHI	5	13	3	2	7	2	32
EVA	1	1	2		2		6
EXC	6	2	1	1	3	2	15
GPA	1	1	1				3
GGV		2	2		2		6
ING	1	1	1		2		5
MAR	3	2	1		1		7
MER		2	2	1	3		8
MIS	6	1	2	4	4	2	19
NVA		1	2				3
NBE	3		1		2		6
OVI	1	11	1	1	1	2	17
ORT	2	2	1		1		6
PAR	1	2	2		1		6
PSI	3	2	2		3		10
POR	2	1	1		1		5
POT	2	2	1		1		6
PRE	2	2	1		1		6
RIC		4	1		4	2	11
SUN	2	3	1		3	2	11
VVA	2	2	1		1		6
WPO		5	3		2	2	12
WSA	3	1	1	11	1	30	47
Total	125	124	51	22	88	60	470



(OLA #:023-03)

**LEGISLATIVE ANALYST REPORT**

**To:** Members of the Board of Supervisors  
**From:** Adam Van de Water, Office of the Legislative Analyst  
**Date:** February 3, 2004

DOCUMENTS DEPT.

FEB - 5 2004

**RE:** **Medical Marijuana Collectives** (File No. 031676)

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**SUMMARY AND SCOPE OF REQUEST**

Supervisors Dufty, Ma, Ammiano, and Gonzalez requested the Office of the Legislative Analyst (OLA) study the non-profit collective/cooperative medical cannabis cultivation and distribution model recently employed by the Wo/men's Alliance for Medical Marijuana (WAMM) in Santa Cruz, and to analyze the feasibility and ramifications of implementing such a model in San Francisco.

**EXECUTIVE SUMMARY**

The passage of State legislation (SB 420) in October 2003 and a Federal appellate court ruling last month provide greater legal flexibility for the establishment of non-profit medical marijuana collectives/cooperatives in San Francisco.

As a result, the Board may wish to pass an ordinance amending the Planning Code detailing the specific zoning or permitting conditions in which such collectives/cooperatives will be approved.

As a matter of policy, the Board may also support these collectives/cooperatives by selling or renting them land, or providing grant money to purchase land, equipment, or security. However, such action, while legal under State law, could risk Federal legal action, lead to the loss of Federal grant funds, and/or increase the city's exposure to civil lawsuits.

**MEDICAL MARIJUANA IN SAN FRANCISCO**

Since August 1992, the Board of Supervisors has passed two ordinances and seventeen resolutions supporting medical marijuana. In 1999, the Board exempted non-profit medical marijuana buyers clubs from the city's smoking laws and, in July 2000, authorized the creation of a model medical cannabis ID card program run by the Department of Public Health (DPH). Since that time DPH has issued over 7,000 medical cannabis ID cards and provided the model for SB 420, a State ID card program currently undergoing initial funding and development.

On November 5, 2002, voters passed Proposition S – a declaration of policy directing the City to “explore the possibility of establishing a program whereby the City would grow medical cannabis



and distribute it to patients attempting to exercise their rights under Proposition 215" – with 62 percent of the vote.

Currently there are fourteen medical marijuana buyer's clubs and no known medical marijuana collectives or cooperatives in San Francisco. Buyer's clubs, unlike collectives/cooperatives, do not grow their own supply and therefore have less protection under State and Federal law.

Per Board of Supervisors Resolution 955-01, however, the Police Department (SFPD), Sheriff's Department, and District Attorney are urged, "not to assist in the harassment, arrest or prosecution of physicians, medical cannabis dispensaries, individual patients, or their primary caregivers." As such, Captain Tim Hettrich of SFPD testified at a September 25, 2003 City Services Committee hearing that the department does not raid or investigate marijuana buyer's clubs. Any conflicts between the buyer's clubs and SFPD, according to Captain Hettrich, are strictly complaint-driven.

### THE WO/MEN'S ALLIANCE FOR MEDICAL MARIJUANA

In 1993, after years of using marijuana to control seizures brought on by a 1973 car accident, Valerie and her husband Mike Corral founded the Wo/Men's Alliance for Medical Marijuana (WAMM). Based in Santa Cruz County, WAMM is a medical marijuana collective that provides marijuana, seedlings, growing equipment, and/or cultivation support to approximately 250 terminally and chronically ill patients with doctor's recommendations for medical marijuana use. Marijuana grown in the approximately 10,000 ft<sup>2</sup> WAMM gardens is the collective property of all members and is distributed to patients weekly based on garden supply and patient need<sup>1</sup>.

WAMM does not buy or sell marijuana. The \$145,000 annual budget is funded by member donations and other private sources. These funds provide for the costs of everything from plant cultivation and supplies to peer counseling, technical assistance, volunteer coordination, security, and all administrative functions.

The WAMM gardens were raided by the Drug Enforcement Administration September 5, 2002. With passage of State legislation in October 2003 and a Federal Appellate court ruling in December 2003, however, collectives such as WAMM are now protected by State law and have more protection from Federal legal action.

To join WAMM, patients and their caregivers must:

- produce a signed Medical Marijuana Recommendation Form from their physician as well as a valid California driver's license, ID card, or passport in order to obtain a WAMM ID card, and
- review the Protocols and Guidelines and sign the Member Consent Form, Confidentiality Statement, and, if applying for seedlings or equipment to grow at home, the Cultivation Contract Agreement.

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<sup>1</sup> The average WAMM patient uses approximately two pounds of marijuana per year. Per SB 420, a patient can legally possess up to one quarter of this amount at any given time unless, as authorized by California law, the Board were to pass guidelines allowing qualified patients and caregivers to exceed these State limits.

## MEDICAL MARIJUANA AND THE LAW

State law currently allows the possession, cultivation, and non-profit personal use of medical marijuana with a physician's recommendation. Federal law (the Controlled Substances Act) prohibits the intentional manufacture, distribution, dispensing or possession of marijuana. However, in December 2003 the Ninth Circuit Court of Appeals held the Controlled Substances Act does not apply to a marijuana cultivation and distribution that is intrastate and noncommercial.

### **Legal Under State Law: Proposition 215 and Senate Bill 420**

Proposition 215 (also known as the Compassionate Use Act of 1996) allows patients and their primary caregivers<sup>2</sup> to possess or cultivate marijuana for personal medical treatment<sup>3</sup> with the recommendation of a physician. Prop 215 also provides legal protection for physicians who recommend the use of marijuana as a medical treatment.

On October 12, 2003, Governor Davis signed SB 420 to address several shortcomings of Proposition 215. SB 420<sup>4</sup> broadened the Proposition 215 definition of primary caregiver to include caregivers that serve more than one patient and specifically allowed for the creation of medical marijuana collectives and cooperatives. It provides that marijuana may not be cultivated or distributed for profit, but a primary caregiver may get compensation for his or her actual expenses<sup>5</sup>.

SB 420 also established possession limits for patients and their caregivers equal to eight ounces of dried marijuana and no more than six mature or twelve immature marijuana plants per person. Section 11362.77, however, specifically allows attending physicians to prescribe higher amounts and lets counties and cities retain or establish more liberal local guidelines that exceed these state limits.

### **Federal Law Does Not Apply: Raich v. Ashcroft**

The Controlled Substances Act prohibits the intentional manufacture, distribution, dispensing or possession of marijuana. The Act applies to interstate commerce, which has been very broadly defined by the Supreme Court. The Supreme Court has held that there was no medical necessity exception to the Controlled Substances Act. The Supreme Court has not ruled on whether the Act exceeds Congress' power under the Commerce Clause. In December of 2003, the Ninth Circuit Court of Appeals ruled that it did.

<sup>2</sup> Defined in CA Health and Safety Code Section 11362.5 (e) as "the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person."

<sup>3</sup> "...the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief." Section 11362.5 (b)(A)

<sup>4</sup> SB 420, Vasconcellos, chaptered October 12, 2003. See particularly Sections 11362.77 and 11362.775. SB 420 also created a state ID card program modeled after San Francisco's that was scheduled to go into effect January 1, 2004. However, due to state budget deficits, the Department of Health Services has not yet implemented it.

<sup>5</sup> The City of Santa Cruz anticipated this when they passed SC2000 06, allowing caregivers to be reimbursed for expenses and/or a reasonable wage.

In Raich v. Ashcroft, two medical marijuana users contended that they engaged in the intrastate, noncommercial cultivation and possession of cannabis for personal medical purposes as recommended by their physician pursuant to valid California law. One user grew her own marijuana; one had caregivers grow it for her and give it to her free of charge. The growers used only soil, water, nutrients, growing equipment, supplies and lumber originating from or manufactured within California. The Court found that under these facts, the users' activities were intrastate and noncommercial and that therefore, the Controlled Substances Act did not apply. The Court also indicated that it did not believe out of state origin of seeds or out of state manufacture of equipment would be a significant interstate commerce connection. However, they implied that directly purchasing these items from an out of state retailer would be an interstate commerce connection.

The Justice Department is expected to appeal the decision, first to the full Ninth Circuit panel and, if necessary, to the Supreme Court.

### **Certain Collectives/Cooperatives Currently Legal**

Unless and until the Raich decision is overturned, the Controlled Substances Act does not apply in the Ninth Circuit (including San Francisco) in cases in which a person cultivates, dispenses, or possesses marijuana for personal medical purposes as recommended by her physician pursuant to Proposition 215. A person must either grow her own marijuana or have a primary caregiver grow it for her and give it to her free of charge. Growers should use only soil, water, nutrients, growing equipment, supplies and lumber purchased in California (and preferably originating in or manufactured in California). Growers should be careful not to operate on land owned, leased or managed by or from the Federal government.

This ruling makes the Santa Cruz/WAMM model of cooperative, collective cultivation of marijuana by patients and their caregivers and free distribution of that marijuana to patients in the cooperative less problematic under Federal law. It is already permissible under State law. However, if a collective or cooperative begins operating in San Francisco, it is anticipated that the Federal government will do its best to find some interstate commerce connection in order to argue that even under the Raich decision, the Commerce Clause applies to medical marijuana collectives and cooperatives.

The Board should consult the City Attorney's Office regarding any additional legal concerns regarding implementing the WAMM model in San Francisco.

### **IMPLEMENTATION FEASIBILITY AND RAMIFICATIONS FOR SAN FRANCISCO**

There are non-legal considerations to implementing a WAMM model medical marijuana collective in San Francisco. These include the location and security of collectives and the extent of the City's involvement. The Board of Supervisors could:

1. Take no action and allow private collectives to form without additional City requirements;
2. Create zoning requirements specific to medical marijuana collectives/cooperatives (i.e., their location, proximity to other locations like schools, and/or accessibility);

3. Create permitting requirements (i.e., imposing security requirements, signage restrictions, specifying hydroponic grows instead of open soil grows); and/or
4. Sell or rent land at a deeply discounted rate to collectives, or provide grants for the purchase of supplies, equipment and security.

City involvement would signal active support and legitimacy for medical marijuana, provide incentives for the formation of collectives/cooperatives in San Francisco, and could reduce the risk and cost of providing medical marijuana to chronic and terminally-ill patients in San Francisco.

However, City involvement in the formation of a medical marijuana cooperative/collective does not come without risk. Even though a collective can be undertaken legally in San Francisco pursuant to California law and the recent decision of the 9<sup>th</sup> Circuit court, there is a risk that City involvement would have the following consequences:

- a) increase the risk that the collective constitutes interstate commerce and therefore violates the Federal Controlled Substances Act;
- b) cause the Federal government to retaliate by cutting off funds to the City for law enforcement or Homeland Security;
- c) result in increased potential civil liability to the City due to criminal or negligent actions which are connected to the City's involvement in the collective (for instance, someone leaves a collective while high, gets in their car, and runs over a pedestrian).





OLA#: 028-03

**LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Anthony Ababon, with Adam Van de Water  
DATE: February 24, 2004  
SUBJECT: Crime Reporting Systems (File No. 031412)

DOCUMENTS DEPT.

FEB 26 2004

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**SUMMARY OF REQUESTED ACTION**

A motion (sponsored by Supervisor Maxwell) requested that the Office of the Legislative Analyst (OLA) research and examine the San Francisco Police Department's crime reporting system with an emphasis on the following questions: How effective is the current system compared to cities similar to San Francisco? What mechanisms are available for San Francisco residents to report crime? How is the information gathered and used? How can the city improve the current reporting system and make better use of the information gathered?

**EXECUTIVE SUMMARY**

The San Francisco Emergency Communications Department's (ECD) 9-1-1 system handles all emergency and the majority of non-emergency calls for San Francisco including low priority, non-emergency calls needing the dispatch of an officer to the crime scene. The San Francisco Police Department (SFPD) also maintains a specialized unit to handle crime reports over the phone.

However, since its adoption as the universal nationwide number for reporting emergencies, the 9-1-1 system has been overburdened with calls for non-emergency services. This appears to be particularly true in San Francisco where fully 55 percent of all 9-1-1 calls are estimated to be non-emergencies: a figure several times that of other surveyed jurisdictions.

The OLA researched alternatives to the reporting system in San Jose, Chicago and Philadelphia that may improve the delivery of non-emergency services to the public. These alternatives to the emergency 9-1-1 system include:

- Utilizing a 3-1-1 number for non-emergency police services and/or city services.
- Increasing public awareness and utilization of the existing police department's 7-digit non-emergency phone system through marketing and/or public education campaigns.
- Establishing an on-line "cold reporting" system for minor crimes and misdemeanors not requiring police dispatch or investigation or for communicating recurring complaints and nuisances to the police department.



The OLA recommends that the Board urge the SFPD to implement a non-emergency online reporting system and improve public awareness of the 7-digit non-emergency number through increased visibility and public education.

These options have the potential to reduce the public's dependence on the 9-1-1 system for reporting non-emergencies and the SFPD's dependence on the dispatching of patrol units as 9-1-1 calls are received. An online reporting system will help the SFPD to process non-emergency service requests electronically and plan an appropriate strategy for such requests at the district level.

### BACKGROUND

California Government Code Section 53100, known as the Warren-911-Emergency Assistance Act, established the 9-1-1 number as the primary emergency telephone number. Over time, the effectiveness of the 9-1-1 number has been constrained because many non-emergency calls that do not require an emergency response are placed to the 9-1-1 number. Moreover, many jurisdictions have recognized the need to improve how the police departments receive requests for and deliver non-emergency services.

Some jurisdictions have implemented a 3-1-1 or similarly memorable 7-digit non-emergency phone number often combined with an online reporting system in order to:

- reduce the call answer time for callers requesting emergency services and diverting non-emergency requests to another number,
- reduce the call answer time for callers requesting police and city non-emergency services,
- enable police officers to dedicate more time engaging in proactive police work and community policing rather than responding to non-emergency service requests from the 9-1-1 emergency dispatch system, and
- reduce the amount of time, energy, and resources spent handling the processing of non-emergency crime reports.

### CURRENT PRACTICE IN SAN FRANCISCO

The City's 9-1-1 emergency number operated by the Emergency Communications Department (ECD) currently serves as the first point of contact for emergency and a large portion of non-emergency calls for police, fire, and medical services. Calls received by a 9-1-1 call taker/dispatcher that require a patrol unit dispatch are assigned priority codes once entered into the Computer Assisted Dispatch (CAD) system. Calls are categorized into four classifications, A-, B-, C-, and I-Priority (see Table I below).

The public can also contact the police for non-emergency services through the police non-emergency number 553-0123 for nuisance-type complaints.

**Table 1. Description Of Calls Received By The 9-1-1 Emergency System.**

	Nature Of Call	Dispatch Patrol Unit	Type Of Response	Estimated Average Patrol Unit Arrival Time
<b>A-Priority</b>	Life-threatening emergency.	Yes	City-wide	5 minutes, 41 seconds
<b>B-Priority</b>	Potential for harm to life and/or property	Yes	District-wide	15 minutes
<b>C-Priority</b>	Crime committed with no threat to life or property. Suspect left crime scene.	Yes	Sector-wide	45 minutes
<b>I-Priority</b>	Information only broadcast, e.g. public disturbance. Caller wants to remain anonymous.	Depends on situation	N/A	N/A

*Source: San Francisco Police Department, Communications Dispatcher Manual (DM-7)*

It is estimated that up to 55% of calls placed to the 9-1-1 system are non-emergencies.<sup>i</sup> These calls often “tie-up” the communications system as dispatchers must answer calls, determine whether the call is an emergency or non-emergency, process the call for response, or re-route the call as deemed appropriate.

The SFPD and ECD offer alternatives for requesting non-emergency police services, including:

- referring or transferring 9-1-1 callers, as appropriate, to the police non-emergency number, 553-0123 or, for crimes that already occurred and do not require further investigation, to the SFPD’s Teleserve Unit<sup>1</sup> at 553-4912,
- dispatching low-priority calls involving crime and nuisance-type calls received through the 9-1-1 system to a police officer for response and investigation, or
- taking walk-in “cold reports” at the police district station 24 hours a day, seven days a week.

Teleserve currently has a multilingual staff of five civilians who receive non-emergency “cold report” requests from Monday to Friday from 8 a.m. to 3 p.m. Teleserve has a capacity for seven civilian operators but due to budget constraints, the staff has been cut to five. In addition, Teleserve’s operating hours were reduced from two shifts (the day and swing shifts) to just one seven-hour shift from 8 a.m. to 3 p.m. Understaffing and reduced operating hours at the Teleserve Unit has resulted in call answer times of up to 3 hours.<sup>ii</sup>

<sup>i</sup> The Teleserve Unit (Teleserve) takes low priority crime incidents and those crimes that occurred but do not need a response (“cold reports”) over the phone. Teleserve does not dispatch police officers in the field, and frees police officers in the field from taking cold reports that would otherwise be dispatched through ECD’s emergency and non-emergency numbers.

Callers unable to reach a Teleserve call taker often use the 9-1-1 system instead, further tying up the system. Often, minor crimes such as graffiti, thefts, burglaries, etc. go unreported because callers become discouraged by the long wait times with the Teleserve Unit.<sup>iii</sup>

A promising partial solution to the long wait times in accessing SFPD non-emergency services is the Citizen Online Police Reporter or C.O.P.R.<sup>iv</sup> While still in the development phase, C.O.P.R. could potentially enable the public to report any of the following to the SFPD:

- Lost Property
- Petty Theft
- Grand Theft
- Vandalism
- Suspicious Occurrence
- Online Tipping
- Automobile Break-In

### OTHER JURISDICTIONS

The cities investigated for their non-emergency crime reporting systems include San Jose, California; Chicago, Illinois; and Philadelphia, Pennsylvania.

#### **San Jose, California**

In November 1997, San Jose launched a pilot 3-1-1 system for non-emergency calls as provided for by state legislation.<sup>2</sup> As a result, in November 2000 the California Department of General Services, Telecommunications Division (DGS-TD) issued a report on San Jose's pilot program ("Non-Emergency Number Pilot Programs") yielding the following initial findings:<sup>v</sup>

- by 31 percent reduction in the total number of calls received by the 9-1-1 telephone number from November 1997 to November 1999,
- approximately 10 percent reduction in the number of non-emergency calls placed on the 9-1-1 telephone number from 1997 to 1999,
- one second reduction in the call answer times for callers calling the city's 9-1-1 telephone number from November 1997 to November 1999, and
- little public confusion about the 3-1-1 non-emergency telephone number because of an effective public education campaign.

The public within the San Jose Police Department's (SJPD) jurisdiction has several channels through which they are able to access police services:

- SJPD Communications handles both non-emergency and emergency requests for police services through San Jose's 3-1-1 and 9-1-1 telephone numbers.
- SJPD Communications operates 24 hours a day, 365 days a year and employs 151 dispatchers.
- The Telephone Report Automation Center (TRAC), implemented in 1995 by City Council action, processes calls requesting police reports for minor crimes ("cold reports") that do not require police investigations such as theft, vandalism, stolen property. TRAC operates from 8:30 a.m. to 6 p.m., Monday through Friday.<sup>vi</sup>
- Three to four civilian call takers staff SJPD Communications during typical shifts and are trained to handle 9-1-1, 3-1-1, and TRAC calls.

<sup>2</sup> Assembly Bill 1198 (AB 1198) required the State 9-1-1 Program to conduct a pilot program for alternative non-emergency numbers to the "9-1-1" emergency number.

- Call takers are divided among the 9-1-1, 3-1-1, and TRAC systems depending on the volume of calls received by each system and the time of day.
- TRAC takes mandated crime reports such as missing persons, cancellations of missing persons, and lost/stolen license plates 24 hours a day, seven days a week.

The initial cost of launching the 3-1-1 system was \$367,438, of which \$200,000 was appropriated from the State Emergency Telephone Number Account of DGS-TD.<sup>vii</sup> This figure includes equipment purchases, equipment maintenance, management services, public education campaign, staff, and preparation for the pilot program.

During July and August 2003, the SJPd launched the On-Line Crime Reporting System.<sup>viii</sup> Callers requesting crime reports through the traditional TRAC phone system are referred to the On-Line Crime Reporting System when call answer times for TRAC are expected to be delayed. For crimes committed within the SJPd's jurisdiction, the public can file the following reports online:

- Auto Burglary
- Theft
- Vandalism
- Vehicle Tampering
- Harassing Phone Calls
- Lost/Stolen Property

As the online crime reporting system has only recently been launched, an assessment of the system's effectiveness at this time is difficult. However, some initial data seems encouraging. Crime report requests through TRAC have decreased by 2 percent from 1447 reports in September to 1419 reports in October 2003.<sup>ix</sup> The number of "cold reports" submitted through the On-Line Crime Reporting System currently are unavailable.

### Chicago, Illinois

In January 1999, Chicago established its 3-1-1 telecommunications system partly to support the Chicago Police Department's (CPD) "Chicago Alternative Policing Strategy" (CAPS) and to divert non-emergency calls from the Office of Emergency Management and Communications (OEMC) that handles all 9-1-1 emergencies. The 3-1-1 telecommunications system in conjunction with the community policing program CAPS—in existence since 1993—enabled the police department to reserve more efforts for emergencies. The 3-1-1 system also reduced the number of non-emergency calls placed to the 9-1-1 emergency system to five percent of approximately four million total calls per year.<sup>x</sup>

The CPD was able to dedicate more time and resources responding to emergencies by designating teams of eight to nine beat officers to handle non-emergency situations exclusively in designated city beats and patrols. These teams of beat officers respond to calls for police service especially those of a non-emergency nature through the 3-1-1 system, freeing up other officers to dedicate their time attending to emergency situations dispatched through the 9-1-1 number.

In addition, the 3-1-1 call center collects data about non-emergency crimes reported through the system that is organized by geographical beats. Data collected from the call center and information collected by CAPS teams are analyzed at monthly, bi-monthly, or quarterly beat meetings. Attended by beat officers and members of the public, beat meetings address the

conditions of beats, identify the types of crimes being committed, and helps the CPD develop strategies to combat these problems.

Chicago invested \$8 million to set up its 3-1-1 call center.<sup>xi</sup> This figure includes the costs of integrating the police department and other city departments into the system. Since its initial launching in 1999, Chicago has integrated all of the city's departments into the 3-1-1 system and employs a city service staff of approximately 54 full time personnel. There are also 200 to 215 limited duty police officers available for non-emergency police services such as "cold report" taking.<sup>xii</sup> Non-emergency police services constitute one-third of the three million calls received annually at the citywide 3-1-1 call center.<sup>xiii</sup>

#### **Philadelphia, Pennsylvania**

The Philadelphia Police Department (PPD) makes available an online reporting system accessible from the PPD website.<sup>xiv</sup> The online reporting system makes accessible reports previously available in a printed format at local district police stations. The report forms available online include the following reports:

- Abandoned Vehicle Report
- Abandoned Property Report
- Commend an Officer
- Feedback Form for contacting the webmaster
- Confidential Narcotics Activity Complaint
- Roll Call Complaint
- Sanitation Violation Report
- Hazardous Highway Conditions Report
- Employment Application for police officers.

Once reports are submitted, the reports are e-mailed to the appropriate district or specialized units handling the crime within 24 hours. The district or unit responds to the report within 48 hours.

Implemented in 1999 initially for a single district but now available for all police districts, the online reporting system helps the public and the PPD in the following ways:<sup>xv</sup>

- Provides the public an alternative system to the 9-1-1 number for nuisance type complaints and other "quality of life" type problems.
- Gives the public access to the PPD 24 hours a day, seven days a week with the option of remaining anonymous.
- Facilitates the reporting of non-emergency problems or conditions of which the PPD should be made aware.
- Ensures that reports submitted online meet certain minimum information requirements for the PPD to determine the appropriate police response as incomplete reports cannot be submitted.
- Helps police units dedicate more time to higher priority calls.
- Reduces duplicate dispatching of police units to the same area for the same, often chronic, non-emergency problems.

The PPD developed the online reporting system over the course of three months, initially for a single district but gradually expanded to include all districts at a cost not exceeding \$2,000 for the purchase of hardware and software applications. In addition, the PPD contracts out the PPD website hosting to a third party at a cost of \$300 per year.<sup>xvi</sup>

Additionally, the PPD operates the Differential Police Response Unit (DPR) that receives non-emergency police service requests originating from the 9-1-1 emergency system. Presently, a dedicated DPR number is not available.

The DPR is staffed by limited duty police officers such as pregnant female officers or injured officers. The DPR handles non-emergency calls reporting, among other complaints, narcotics sales or abandoned vehicles and distributes them to the appropriate units to take action.

PPD officials estimate that 10-15 percent of the 3.3 million 9-1-1 calls have been diverted to the DPR and the online reporting system.<sup>xvii</sup> Exact numbers of total online report submittals are unavailable as the online system is not tied to a specific central database at the PPD. Instead, submissions are e-mailed directly to commanding officers at district stations.

### ANALYSIS

San Francisco provides the public alternatives for requesting non-emergency police services such as the police non-emergency number (553-0123) and for "cold reports" the SFPD's Teleserve number (553-4912). Because Teleserve is not fully functional, members of the public use the 9-1-1 system to file complaints when unable to reach the Teleserve Unit. These and other non-emergency calls to the 9-1-1 system increase the call burden on 9-1-1 and compromise the City's ability to respond to genuine emergencies.

The SFPD could increase funding for Teleserve to hire and train more call takers, utilize limited duty officers as Teleserve call takers, and/or implement an online reporting system.<sup>3</sup> While a suitable approach is used in Philadelphia's DPR unit, staffing of the SFPD's Teleserve Unit with light duty officers, often with disciplinary holds, has been attempted in the recent past in San Francisco but proved unsuccessful, according to Captain O'Neil of the SFPD.<sup>xviii</sup>

An online reporting system would leverage technology to increase the public's access to non-emergency police services including reporting minor crimes and nuisance complaints but does have some limitations. In considering different ways to implement an online reporting system similar to those in place in San Jose and Philadelphia, the SFPD is already considering

<sup>3</sup> San Francisco voters approved Proposition D in June of 1994 that established a minimum level of 1,971 full duty sworn personnel, and the City has prioritized hiring sworn personnel to meet the Proposition D mandate (City Charter Section 4.127). As a result, the SFPD cannot hire additional civilian personnel including Teleserve call takers without increasing its budget and adding personnel costs to the SFPD.

A proposed amendment to the City Charter subject to voter approval on March 2, 2004 would amend Section 4.127 and add Section 16.123 to provide for a study of which positions in the Police Department could be filled by civilian personnel rather than sworn officers and allow the City to reduce the minimum police staffing level for each position it converts from sworn to civilian.



some obstacles that may limit equal access to the police department including the following considerations:<sup>xix</sup>

- Unequal access to the computers and the internet.
- Unfamiliarity with computers and the internet.
- Reading and typing challenges for non-English speakers, physically challenged, and elderly.

For members of the public without computer and/or internet access, the San Francisco Public Library currently maintains 400 public access computers with internet access at 28 branch libraries and the main library. On average about 10 publicly accessible computers and one express terminal are available at the branch libraries while 103 total computers are available at the main library. Typically, a patron waits 30 minutes to one hour to have access to the computer for one hour. Express terminals are available for use for 15 minutes and the average wait time is 15 minutes. The wait time to access a computer, however, varies greatly depending on the time of day and library branch.<sup>xx</sup>

Different approaches to mitigating the effects of unequal computer and internet access have already been proposed by the SFPD. These include the following proposals:<sup>xxi</sup>

- Making public computer kiosks with internet access available in public buildings.
- Making the web-based reporting system available in the languages most used in San Francisco, including among other languages Spanish and Chinese.

In addition, the public should have more than one way to access the police department and some redundancy should be built into the non-emergency crime reporting system. Neither the emergency nor non-emergency systems including Teleserve should be cut in anticipation of or any realized cost benefits derived from launching an online reporting system. Instead, an online reporting system may alleviate non-emergency call burdens on the ECD emergency and non-emergency telephone numbers and increase accessibility for members of the public using the existing systems.

### RECOMMENDATIONS

The OLA recommends that the Board urge the SFPD to design and develop an online reporting mechanism integrated with the SFPD's existing web site for the purpose of receiving non-emergency nuisance type complaints and/or enabling the public to file "cold reports." It is estimated that an online reporting capability would relieve the ECD and the Teleserve Unit of at least five percent of report requests, reducing the average wait time for non-emergency callers dialing Teleserve.

The City may consider more aggressively marketing the existing non-emergency phone numbers, the non-emergency 553-0123 and Teleserve 553-4912. However, any marketing efforts that increase public awareness of the Teleserve number without a fully functioning Teleserve system (24 hours a day or a minimum 8 a.m. – 5 p.m.) could potentially further the public's frustration due to the additional burden of more calls and long wait times.

**APPENDIX 1: SUMMARY COMPARISON OF NON-EMERGENCY CRIME REPORTING SYSTEMS  
IN SURVEYED JURISDICTIONS**

Jurisdiction		Total calls per year <sup>4</sup>	Staff	Operating hours	Online Reporting System	Crime Index Rate <sup>5</sup>
San Francisco	Emergency 9-1-1	Approximately 1.3 million calls  55% or 715,000 of all calls are non-emergencies	ECD: Approximately 160 civilian dispatchers  Approximately 12 dispatchers per shift	24 hours	N/A	5,429.7
	Non-emergency 553-0123	Approximately 500,000 calls.				
	SFPD Teleserve "cold reports" 553-4912	N/A	5 civilian clerks	8 a.m. to 3 p.m., M-F.		
San Jose	Emergency 9-1-1	325,000 calls  9% or 30,000 are non-emergencies	151 civilian dispatchers for 9-1-1, 3-1-1, and TRAC	24 hours	On-line Crime Reporting; able to take crime reports	2,548.5
	Non-emergency 3-1-1	275,000 calls from 9/1999 to 8/2000.				
	TRAC "cold reports", TRAC does not have a direct number	156,000 calls.	3-4 dispatchers per shift for 9-1-1, 3-1-1, and TRAC	TRAC 8:30 a.m. to 6 p.m., M-F.		

<sup>4</sup> Call prioritization and whether a call is an emergency or non-emergency depends on police policies and procedures for each jurisdiction and are not directly comparable across jurisdictions.

<sup>5</sup> Source: U.S. Department of Justice, Bureau of Justice Statistics. The Crime Index is calculated as the number of violent crime and property crime per 100,000 inhabitants.

Jurisdiction		Total calls per year <sup>6</sup>	Staff	Operating hours	Online Reporting System	Crime Index Rate <sup>7</sup>
Chicago	Emergency 9-1-1	4 million calls in 1999 5% or 200,000 are non-emergencies and transferred to 3-1-1	1,048 total staff, 463 police dispatch and 276 3-1-1 dispatch <sup>xxii</sup> 30 call takers and 26 dispatchers per shift <sup>xxiii</sup>	24 hours	N/A	7,275.6
	Non-emergency and "cold reports", 3-1-1	3 million calls, 1 million non-emergency police service requests	200-215 limited duty sworn officers are available for police non-emergency services			
Philadelphia	Emergency 9-1-1	3.3 million calls	261 civilian dispatchers	24 hours	On-line reporting system for abandoned vehicles, abandoned property, narcotics complaints, etc.	6,457.8
	Non-Emergency and "cold reports", DPR does not have a direct number	5% or 165,000 are non-emergencies and transferred to DPR	6-20 limited duty sworn officers staff DPR per shift			

<sup>6</sup> Call prioritization and whether a call is an emergency or non-emergency depends on police policies and procedures for each jurisdiction and are not directly comparable across jurisdictions.

<sup>7</sup> Source: U.S. Department of Justice, Bureau of Justice Statistics. The Crime Index is calculated as the number of violent crime and property crime per 100,000 inhabitants.

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OLA#: 035-03

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## LEGISLATIVE ANALYST REPORT

TO: Honorable Members of the Board of Supervisors  
FROM: Giuliano Castellano, with Gabe Cabrera  
DATE: February 24, 2003  
SUBJECT: **Municipal Use of Private Contractors for Cable Franchise Renewals (File No. 031750)**

### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor Sandoval) requesting the Office of the Legislative Analyst (OLA) to survey other major cities such as Berkeley and Santa Cruz to find out whether they have used outside contractors or consultants to negotiate their cable franchise agreements. Also requesting the OLA to consult with the Department of Telecommunication and Information Services (DTIS) and AccessSF on this matter.

### EXECUTIVE SUMMARY

The City's current cable franchise agreement with Comcast is due to expire December 31, 2005. DTIS, the Board of Supervisor's designated negotiator, is already working on the renewal of this agreement based largely upon a community needs assessment and telephone survey. DTIS staff advised the OLA that they have the knowledge, experience and resources to successfully negotiate a new agreement with Comcast. However, they intend to use consultants (as they have in the past) for specific matters during the renewal process. For instance, they are in the process of preparing two separate Requests for Proposals (RFPs) to hire consultants for the community needs assessment and telephone survey.

During the renewal process, the City Attorney's Office will provide DTIS with legal advice regarding local and federal telecommunications law. The City Attorney's Office will itself use legal consultants to advise it on telecommunications law.

The Board of Supervisors should nevertheless urge DTIS and the City Attorney's Office to continue to seek help from consultants on technical and legal matters regarding the renewal process.

Notably, the cities of Berkeley and Santa Cruz in the recent past hired a consultant (The Buske Group) to help them establish Public, Education & Government (PEG) access management corporations, not for assistance with cable franchise renewals. However, The Buske Group and several other consultants are available to help the City with its renewal process as discussed later in this report.



## BACKGROUND

A franchise renewal involves numerous tasks and coordinated efforts of cable experts, City staff, elected officials, and local residents. The renewal involves an examination of the past performance of the cable service provider, an exploration of community telecommunication needs and interests and the actual negotiation process. Generally, twenty-six months are needed to negotiate renewal of cable franchise, according to DTIS staff. The following is a summary of the steps that the City needs to make in order to negotiate a renewal:

1. Prepare for the cable franchise renewal process
  - Involve municipal authorities (in this case, DTIS, the City Attorney and Telecommunications Commission);
  - Analyze local and federal law.<sup>1</sup>
2. Review of the cable operator's past performance (i.e., Comcast)
  - PEG access review;
  - Finance review;
  - Public participation through Community Coalition Partners representing community, independent media, schools, colleges businesses, interest groups and stakeholders; and
  - Analyze the quality of the service.
3. Identify new community telecommunication needs
4. Prepare for and conduct negotiations
  - Prepare the initial draft of the new franchise agreement (a proposal);
  - Negotiate;
  - Review;
  - Determination of the contract; and
  - DTIS Executive Director makes recommendation to Board of Supervisors.
5. The Board of Supervisors passes either:
  - An ordinance renewing the proposed franchise, or
  - A resolution proposing to deny the renewal of the franchise.

### **The Role of a Franchise Renewal Consultant**

Generally speaking, a franchise renewal consultant works closely with designated City staff including (for instance) a Cable Administrator, Cable Communications Commission, City Manager and City Attorney. Our research shows that the role of a franchise consultant may vary from city to city. Small cities, without a telecommunications authority, typically hire consultants to help them in the negotiation process as whole. Larger cities, like San Francisco, may already

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<sup>1</sup> Including, but not limited to, the 1996 Federal Telecommunications Act and Chapter II of San Francisco's Administrative Code.

have the knowledge, experience and resources to successfully self-manage the negotiation process and a consultant's role may therefore be limited.

### CURRENT PRACTICE

Currently, the City has two separate cable franchise agreements: one with Comcast, the other with RCN Telecom Services.

- Comcast is the owner of the Television Signal Corporation (TSC), which is one of the City's Cable Television Franchise Grantees. The term of the City's agreement with TSC was initially set to expire in 1985, but in 1980 the Board of Supervisors extended the term for 20 years from 1985. This agreement is due to expire December 31, 2005.
- RCN Telecom Services, a New Jersey-based telecommunications company, is the City's other Cable Television Franchise Grantee. On July 25, 2000, the Board of Supervisors approved a 13-year cable franchise agreement with RCN. This agreement is due to expire in 2013.

Both agreements were negotiated by DTIS and the City Attorney's Office (the Board of Supervisor's designated negotiator and legal counsel respectively).

During the negotiation process, DTIS and the City Attorney's Office dealt directly with the cable companies. However, they consulted with 1) The Buske Group and Management Resources (cable franchise consultants) on technical matters and 2) Miller & Van Eaton (a private law firm) for legal assistance on telecommunications law.

DTIS and the City Attorney are already working on the renewal of the City's contract with Comcast based largely upon a community needs assessment and telephone survey. DTIS staff advised the OLA that they have the knowledge, experience and resources to negotiate a new agreement with Comcast. However, they intend to use consultants (as they have in the past) for specific matters during the renewal process. For instance, they are in the process of preparing two separate RFPs to hire consultants for the community needs assessment and telephone survey. The Appendix section of this report contains brief descriptions of consultants, which DTIS may solicit for the aforementioned assessment and survey.

### OTHER JURISDICTIONS

The cities of Berkeley and Santa Cruz hired The Buske Group in the recent past to help them establish PEG access management corporations, not for assistance with cable franchise renewals. Nevertheless, the following section describes the nature of the work performed by The Buske Group on behalf of the two cities.

**City of Berkeley** - The Buske Group had the following mandates:

- develop a workplan and timeline reflecting the tasks that the Board of Conveners must undertake;

- conduct a daylong briefing workshop for the Board of Conveners;
- attend meetings of the Board of Conveners and all committees, guiding the group and serving as an information resource to them;
- develop draft articles of incorporation and bylaws for the Access Management Corporation that provides access services in Berkeley;
- facilitate a process that results in the identification of the initial Board of Directors for the Berkeley Access Management Corporation;
- prepare guidelines for the development of a five-year capital and operating plan;
- develop an outline and summary of cable access policies and procedures;
- develop an outline of key areas included in the access management contract between the City and Access Management Corporation; and
- facilitate an orientation for the initial Board of Directors of the Access Management Corporation.

**The City of Santa Cruz** - The Buske Group provided a wide range of assistance regarding the initiation and development of PEG access including:

- PEG access shaped on community needs and interests;
- review the franchise agreement, ordinances, and other documents that described the obligations of the cable operator;
- identify the equipment and facility needs for PEG access;
- evaluate the suitability of the facilities and equipment provided by the cable operator for PEG access purposes;
- develop and recommend a PEG access management model, to include a management entity, articles of incorporation and bylaws, training curriculum, budget, staffing, PEG access services to be provided, and equipment and facilities;
- identify the roles of the City and County government, Cable TV Commission, and the PEG access management entity; and
- assist the Board of Directors of the PEG access in the process of selecting its initial Executive Director.

The OLA could not obtain information about the costs of the above projects. However, The Buske Group estimates that those costs were substantially smaller than those which would be incurred during a cable franchise renewal. According to the Buske Group, it currently charges between \$85,000 and \$100,000 for assistance with renewals. This includes costs for focus groups, telephone surveys, analysis of the previous franchise agreement, stakeholder interviews and report writing.

### CONCLUSION

In closing, DTIS believes that its in-house staff would be able to successfully negotiate a new cable franchise agreement between the City and Comcast utilizing consultants for the community needs assessment and telephone survey. The Board of Supervisors should nevertheless urge DTIS and the City Attorney's Office to continue to seek help from consultants on technical and legal matters regarding the renewal process.

## APPENDIX

**The Buske Group** is a consulting firm in Sacramento that offers a broad range of consulting services in many areas, including:

- Franchise renewal
- Cable regulation and policy
- Cable rate regulatory assistance
- Cable company franchise compliance and performance reviews
- Development of management plans for public, educational or government access channels and operations

The Buske Group provides consulting services to various municipalities throughout United States and particularly within California, where it has provided consulting services to more than 60 cities.

**Miller & Van Eaton** is a law firm located in Washington D.C with an additional office in San Francisco. It offers services in telecommunications law for public and private sector clients. Miller & Van Eaton provides counsel and legal representation on a wide range of business and regulatory matters that relate to communications industry, including cable television, broadcasting, telephony and wireless communications.

**Lare & Associates LLC**, located in Seattle, Washington, provided clients expertise in the following areas:

- Telecommunications
- Computer Networks
- "Vendor Neutral" Consultation
- Fiber optic and Category 5 cabling infrastructures
- Project Management

Lare & Associates also provides integrated solutions to meet its clients' systems short and long term applications needs.

**Weiss Serota Helfman Pastoriza Guedes Cole & Boniske, P.A.** is a Florida-based law firm specializing in commercial litigation, land use and real estate law, employment and labor law, governmental law, and governmental relations. The firm devotes a substantial portion of its practice to the representation of governments, and persons and entities who do business with local governments. The firm serves as city attorney to numerous municipalities in South Florida and performs special counsel services to many other governmental and quasi-governmental entities. The firm also represents some of America's largest corporations, including American Airlines, Hertz Corporation, Nextel, NBC and BFI.

**Fox, Smolen & Associates**, located in Austin, Texas, provides clients with assistance in dealing with rapidly evolving energy and telecommunications markets. Its mission is to provide our clients with accurate and timely planning and regulatory assistance.

**MuniCom**, located in Portland, Oregon, provides consulting assistance to public jurisdictions and other organizations in all areas of cable and telecommunications franchising, system overbuilds, system ownership changes, franchise renewal, franchise negotiations, community ascertainment, PEG access, institutional telecommunications and franchise administration. MuniCom has worked in several franchising projects where commercial or municipal overbuilds are planned, and level playing field considerations are critical.

**TeleDimensions International, Inc. (TDI)** is based in Cincinnati, Ohio. Through its subsidiary, TeleDimensions, Inc., TDI specializes in providing telecommunications public policy consultation to the public sector. It assists clients in the development of telecommunications consulting and planning services designed to move organizations into the Information Age. Its telecommunications service products include both strategic and transitional planning, design, and implementation of telecommunications infrastructure management, operational and organizational systems

**Rika Welsh** (individual) works with The Buske Group on community needs assessment activities and focus group sessions. Ms. Welsh has over 25 years of experience and has been involved in the design, implementation and management of many PEG Access centers.

Other consulting groups, which may be solicited by DTIS for assistance during the renewal process, include: 1) Management Resources, 2) Telecommunications Management Corporation, 3) Communications Support Group, Inc. and 4) Community Media Visioning Partners. The OLA attempted but was unable to obtain any information on these groups.



OLA#: 032-03

## **LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Office of the Legislative Analyst (OLA)  
DATE: February 26, 2004  
SUBJECT: Single-Screen Movie Theaters (File No. 031509)

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### **SUMMARY OF REQUESTED ACTION**

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Motion requesting the OLA to report on the status of eight single-screen movie theaters in San Francisco and the feasibility of the proposal by Save the Theaters, a non-profit organization, to renovate these theaters and expand the City's independent film industry.

### **EXECUTIVE SUMMARY**

Save the Theaters is asking the City to issue general obligation (GO) bonds to finance its Artist and Theater Economic Revitalization (TheATER) project. According to Save the Theaters, this project would renovate eight single-screen movie theaters in San Francisco and expand the City's independent film industry.

The Board of Supervisors has the authority to issue GO bonds, which must be approved by a two-thirds vote of the local electorate.<sup>1</sup> GO bonds are repaid by City property taxes.

The TheATER project's goals to renovate the theaters and stimulate the growth of the City's independent film industry are certainly worthwhile. However, it is unclear whether GO bonds are the appropriate vehicle to finance the TheATER project. Under the State Constitution, the City is prohibited from giving or lending its credit to any private person, association or corporation.<sup>2</sup> The City may issue GO bonds to finance projects that incidentally benefit private parties provided a "significant public purpose" is advanced. The determination of whether a project furthers a public purpose is within the sole discretion of the Board. While the Board has issued GO bonds for a variety of projects in the past (e.g., City Hall, the Asian Art Museum and the San Francisco Zoo), it first determined that each of these projects advance a significant public purpose. Whether the TheATER project does the same is therefore a policy matter for the Board of Supervisors.

<sup>1</sup> City Charter, Sec. 9.106

<sup>2</sup> California Constitution, Art. 16, Sec. 6



The OLA recommends that the Board ask the City Attorney's Office and Mayor's Office of Public Finance to work with Save the Theaters to help determine whether GO bonds are the appropriate vehicle to finance the project and to explore other funding options including but not limited to the creation of Business Improvement Districts in the areas surrounding the theaters. The OLA also recommends that the Board ask Save the Theaters to: 1) analyze the economic impacts of its proposal on the local independent film industry and economy and the City's tax revenues and report its findings to the Board and 2) provide the Board with a list of theater owners who are willing to sell their properties and neighborhood groups and merchant associations who live/work near the theaters and endorse the project.

### THE PROPOSAL

Save the Theaters estimates that the cost to purchase and renovate the eight theaters would be between \$50 and \$62 million. This estimate does not include the cost of debt service and other financing costs. According to Save the Theaters, in exchange for financing the proposal, the City would realize new jobs and increased business, sales and property tax revenues from the resulting growth of the local independent film industry.<sup>3</sup>

The TheATER project calls for the City to enter into a sole-source Memorandum of Understanding (MOU) with Save the Theaters to operate and maintain the theaters. Proceeds from the sale of movie tickets, special event admissions and concession stand items would provide funds for ongoing operation and maintenance costs. The proposal would also allow Save the Theaters to open cafes and other businesses in theater lobbies, and perhaps to serve beer and wine. In addition, Save the Theaters would reintroduce the movie intermission enabling audience members to interact with each other during the middle of the movie.

Save the Theaters intends to open one theater at a time over a three-year period. According to the proposal, revenues generated by the first theater along with monetary donations to Save the Theaters would be used to cover the costs of opening subsequent theaters.

Save the Theaters believes that past efforts to save single-screen theaters have been largely unsuccessful because they are forced by distributor contracts to continue a movie run despite lagging ticket sales whereas multi-screen theaters simply move the movie to one of their smaller screens to accommodate smaller audiences and therefore do not need a "full house" to make a profit.<sup>4</sup> Single-screen theaters, on the other hand, typically have more seats than multi-screen

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<sup>3</sup> The latest U.S. Census Bureau data shows that the independent film industry in San Francisco is relatively small in comparison to those in other jurisdictions. For instance, in 1997, there were 74 establishments relating to independent artists, writers and performers in San Francisco. By way of comparison, in Los Angeles there were 2,657 during the same year. Also in 1997, independent artists, writers and performers doing business in the City and County of San Francisco generated revenue totaling \$29,522,000, while those in Los Angeles County generated approximately \$3.6 billion. Furthermore, in 1997, the number of paid employees (full-time and part-time) working in this industry was 206 in San Francisco and 4,650 in Los Angeles. Collectively, the annual payroll of these employees was \$10,752,000 in San Francisco and approximately \$2.2 billion in Los Angeles. Any conclusions drawn from this comparison should be considered in light of the fact that Los Angeles has a significantly larger general population and geographic area than San Francisco.

<sup>4</sup> Since 1980, thirty-five single-screen movie theaters have closed in San Francisco (National Trust for Historic Preservation, Online at [www.nationaltrust.org](http://www.nationaltrust.org))

theaters and find it harder to stay viable when they are not full. Under the TheATER project, filmmakers would be required to enter into individual contract agreements with Save the Theaters requiring them to produce at least one-third of their movie within the City and County of San Francisco and fill a renovated theater to at least 50 percent capacity in exchange for 50 percent of ticket sales when their movie is played. Any filmmaker who participates in school-based arts programs and senior outreach services (which have yet to be identified) may be granted an exemption from the one-third production requirement by Save the Theaters if he/she agrees to make the majority of their next movie in San Francisco.

Save the Theaters would be governed by a board of directors and advised by a group of entertainment industry representatives, including filmmakers, artists and writers, on technical matters, including movie programming and marketing. In addition, Save the Theaters would allow San Francisco moviegoers to vote for the types of movies to be showed at the renovated theaters. According to Save the Theaters, this would help to create movie standards for the theaters that are customized to the specific demographics of moviegoers and thus ensure the profitability of the theaters.

#### STATUS OF THEATERS

The following is a brief description of the subject theaters in the City and County of San Francisco.

- The Metro, located at 2055 Union Street, was built in 1924 and renovated in 1998. It seats 700 people and is currently operated by United Artists.
- Cinema 21, located at 2141 Chestnut Street, was built in 1927 and closed in 2001. In 2002, the City's Planning Commission rejected a proposal by Walgreens to convert Cinema 21 into a drugstore.
- The New Mission, located at 2550 Mission Street, was built in 1916, renovated in the 1930's and closed in 1993. A retail furniture store currently occupies the theater's lobby. The theater seats 2,800 people and is currently owned by the City College of San Francisco, which planned to build a new campus on the site, but now intends to sell it. Notably, in December 2003, the Mayor and Board of Supervisors approved legislation (File No. 031943) designating the New Mission as a City landmark.
- The Tower, located at 2465 Mission Street, was most likely built in the 1930's but no records exist to corroborate when it closed. It seated about 870 people and is currently operated as a church.
- The Grand, located at 2665 Mission Street, was built in 1940 and closed in 1988. It seated about 850 people and is currently operated as a retail store.
- The Pagoda, located at 1700 Powell Street, opened in 1909 as the Washington Square Theatre. It was extensively remodeled in the late 1930's and reopened as the Palace in 1937.

It was renamed the Pagoda in 1974 offering a policy of Chinese films then ultimately closed in 1994.

- Cine Latino, located at 2555 Mission Street, opened as the Wigwam in 1913 with vaudeville and films. In 1930, it reopened as the New Rialto with "talking pictures". In 1947, it was renamed the Crown with a new front. In 1974, it became Cine Latino featuring Mexican films. It closed in 1987 and is currently vacant.
- In 1961, a portion of the Regency Building, located at 1320 Van Ness Avenue, was leased out to the Regency Theater and movies were shown here until 1998. The space is currently operating as an event venue.

Attachment 1, created by the OLA, is a map of the locations of the eight theaters. Save the Theaters has also identified the locations of three alternate theaters in case one or more of the eight theaters becomes unavailable.

Attachment 2, provided by Save the Theaters, contains a list of the current status of the theaters (facility, operational and ownership), estimated purchase prices and proposed improvements and related costs.

### CURRENT LAW

GO bond financing is a type of long-term borrowing that the City uses to raise money for capital projects. The City receives money by selling GO bonds to investors. The City must pay back the amount borrowed plus interest to those investors. The money raised from GO bond sales is typically used to pay for large capital projects that do not generate revenue such as fire and police stations, affordable housing programs, schools, libraries, parks and other public facilities. The City uses GO bond financing because the large dollar costs of these public facilities are difficult to pay for all at once.

The Board of Supervisors has the authority to issue GO bonds, which must be approved by a two-thirds vote of the local electorate. GO bonds are repaid by City property taxes.

The Board may issue GO bonds to finance projects that incidentally benefit private parties provided a significant public purpose is advanced. The determination of whether a project furthers a public purpose is within the sole discretion of the Board.

The City's Charter imposes a limit of three percent of the assessed value of taxable property in the City on the amount of GO bonds the City can have outstanding at any given time.<sup>5</sup> The City had approximately \$94.7 billion in assessed value (net of unreimbursable exemptions) as of the close of the fiscal year.<sup>6</sup> At the same time, the City had \$860 million in authorized, outstanding property tax-supported GO bonds, which is equal to approximately 0.91 percent of the taxable assessed value of property. There were an additional \$922.5 million in bonds that were authorized but not issued. If all of these bonds were issued and outstanding in full, the total debt

<sup>5</sup> City Charter, Sec. 9.106

<sup>6</sup> Controller's Office, Comprehensive Annual Financial Review (CAFR), Year Ended June 30, 2003.  
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burden would be approximately two percent of the taxable assessed value of property. The City would therefore be within its indebtedness limit if voters approved GO bonds, totaling between \$50 and \$62 million, for the proposal.

### DISCUSSION

A close examination of the TheATER project reveals some serious flaws in its design and proposed implementation.

First and foremost, it is unclear whether GO bonds are the appropriate vehicle to finance the TheATER project. As noted above, before issuing GO bonds for this type of project, the Board must first determine that it advances a significant public purpose. In the past the City has issued GO bonds for City buildings (e.g., City Hall, Laguna Honda Hospital and several branch libraries) and for cultural and recreational facilities (e.g., the Academy of Sciences, the Asian Art Museum and the San Francisco Zoo). While varied, the Board determined that each of these projects furthered a significant public purpose.

Notably, the City has never issued GO bonds with the explicit purpose to stimulate the local economy and promote jobs. To do so would be a significant change in City policy, according to the Mayor's Office of Public Finance.

Revenue bond financing may be an alternative.<sup>7</sup> However, it is also unclear whether revenue bonds may be legally issued to finance the TheATER project because they (like GO bonds) are typically used to pay for projects that serve the public as a whole. Arguably, the City's purchase and renovation of the theaters would benefit all citizens, certainly those who are moviegoers. However, it is difficult to argue that Save the Theaters proposal to share 50 percent of ticket sales with filmmakers provided that they produce one-third of their movie within the City and County of San Francisco and help fill the theaters would benefit all citizens.

The primary advantage of bond financing is that it is typically tax exempt financing. Investors who lend money to the City pay no Federal income tax on the interest they earn. This allows the City to pay reduced interest rates and therefore a project's overall costs are lowered. However, according to the City Attorney, any bonds issued to finance the TheATER project (whether GO or revenue bonds) would more than likely be taxable under Federal tax law since the primary beneficiaries of these bonds would be private parties.

A Business Improvement District (BID) is another alternative. BIDs are formed by a majority of property owners within a district, with approval from the Board of Supervisors and in accordance with State law. BIDs are private/public partnerships where property or business owners elect to assess themselves in exchange for the authority to spend the difference on agreed upon improvements in its management plan. In this case, the TheATER project would be funded by BIDs created in the areas around the theaters. See the OLA's report (File No. 021934) dated February 5, 2003 for more information on BIDs.

<sup>7</sup> Revenue bonds are used to pay for projects such as major improvements to airports, water systems or other facilities that generate revenue. Revenue bonds are generally repaid from revenues generated by bond-financed projects, for example usage fees or parking fees.

Beyond the legal questions raised by the TheATER project, the Mayor's Office of Public Finance has serious concerns over the project's financial soundness. City staff advised the OLA that the estimated costs to purchase and renovate the theaters do not appear to be well researched. Without more detailed analysis of these costs, the Board of Supervisors would be unwise to saddle San Francisco taxpayers with millions of dollars in debt. The Mayor's Office also expressed concerns over the City's bond debt limit. While the City is currently under its limit, the Board of Supervisors would be wise to set priorities for future debt to continue to maintain good credit ratings, according to City staff.

Save the Theaters states that it spoke with theater owners informally and learned that they would be willing to sell their properties. However, there is no indication that the owners of the Tower, Grand and Crown are willing to do so. Currently, their properties are either leased to private parties or have been closed for some time. There is some indication that San Francisco merchants want to save theaters but they do not explicitly support the TheATER project.<sup>8</sup> Similarly, a recent poll of 400 registered San Francisco voters shows that 61 percent of respondents would vote yes on a \$49 million bond measure to save neighborhood theaters and revitalize them into community art centers.<sup>9</sup> However, this poll measures general willingness to save theaters and it does not necessarily reflect the opinions of people living near the theaters as it was conducted on a Citywide basis.

Save the Theaters estimates that its operation of the theaters alone would create 137 full-time jobs and generate about \$2.9 million for local businesses during the first year and about 1,134 full-time jobs and \$22.6 million per year after all eight theaters are opened. According to Save the Theaters, it would also generate about \$173,000 in City tax revenues during the first year and about \$1.4 million per year after all theaters are opened. However, these estimates are based on the averages of similarly populated cities with unique economic data and therefore should not be used as substitutes for conducting an impact study on City tax revenues that is customized for San Francisco.<sup>10</sup>

In addition, Save the Theaters estimates that its proposal would increase by ten-fold the size of the existing independent film industry in San Francisco. If true, the number of establishments relating to independent artists, writers and performers would increase from 74 to 740; annual revenue generated by these groups doing business in San Francisco would increase from about \$30 million to \$300 million; the number of paid employees working in the industry would increase from 206 to 2,060; and the annual payroll of these employees would increase from about \$11 million to about \$110 million (see footnote #3 of this report). According to Save the Theaters, these estimates may be multiplied by 2.12 to capture the input-output change in the economy as a result of the TheATER project.<sup>11</sup> However, there appears to be wide disagreement among economists over the correct multiplier to apply to the industry and Save the Theaters has

<sup>8</sup> To date, this list includes the Marina Merchants Association, Mission Merchants Association, Union Street Association, Greater Geary Boulevard Merchants Association and the District Council of San Francisco Merchants.

<sup>9</sup> David Binder & Associates, *San Francisco Content Media Survey: Final Results*, April 28, 2003.

<sup>10</sup> Americans for the Arts, *Arts & Economic Prosperity Calculator*, Online at <http://artsusa.org/economicimpact/calculator.asp#>

<sup>11</sup> Arthur Anderson Economic Consulting used a multiplier of 2.12 for income and labor effects in its study of independent filmmaking, done for the American Film Marketing Association.



not actually studied the economic impacts of its proposal on the existing industry and City tax revenues in San Francisco.

Moreover, if the City enters into a sole-source MOU with Save the Theaters to operate the theaters, it would necessarily forgo revenue from the sale of movie tickets, special event admissions and concession stand items. As noted above, Save the Theaters intends to use operating revenues generated by the first theater to cover the costs of opening subsequent theaters. Attachment 3, provided by Save the Theaters, is an estimate of the operating costs and revenues associated with the first theater over a one-year period. Save the Theaters estimates that its proposal will generate a net profit of approximately \$147,200 after one year.

Finally, Save the Theaters conservatively estimates that 124,800 people will attend the theaters during the first year. There is some evidence to support this estimate especially because Save the Theaters expects the demographics of their patrons to resemble those of film festival attendees (as opposed to those of traditional moviegoers). For instance, 94,500 people attended the 2003 SF International Film Festival over just a 15-day period.<sup>12</sup> Festival organizers forecast 95,000 attendees at next year's festival.

### CONCLUSION

In closing, the TheATER project's goals to renovate eight single-screen theaters and stimulate the growth of the City's independent film industry are certainly worthwhile. However, it is unclear whether GO bonds are the appropriate vehicle to finance the TheATER project especially in light of the fact that Save the Theaters proposes to share 50 percent of ticket sales with filmmakers provided that they produce one-third of their movie within the City and County of San Francisco and help fill the theaters to at least 50 percent capacity. In addition, any bonds (whether GO or revenue bonds) used to finance the project would more than likely be taxable under Federal tax law since the primary beneficiaries of these bonds would be private parties. This negates the primary advantage of tax-exempt bond financing. Moreover, City officials have serious concerns over the project's cost estimates as well as its affect on the City's credit ratings. The OLA therefore recommends that the Board take the following courses of action:

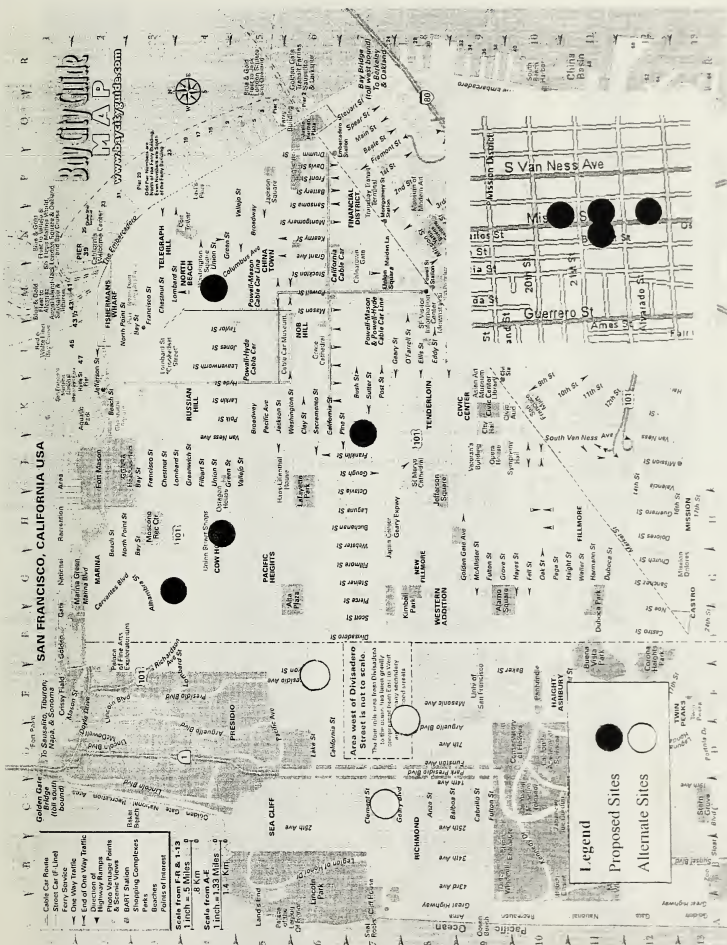
- Ask the City Attorney's Office and Mayor's Office of Public Finance to work with Save the Theaters to help determine whether GO bonds are the appropriate vehicle to finance the project and to explore other funding options including but not limited to the creation of Business Improvement Districts in the areas surrounding the theaters.
- Ask Save the Theaters to analyze the economic impacts of its proposal on the local independent film industry and economy and the City's tax revenues and to report its findings to the Board of Supervisors.

<sup>12</sup> The average attendee was 37 years old, the gender balance was tilted slightly toward women (58 percent), two-thirds of attendees were single (not married), three-fourths had a college degree, seven out of ten attendees were white and \$60,000 was the mean income.



Notably, the Board may also ask the Municipal Fiscal Advisory Committee (MFAC) to analyze the proposal. MFAC is a group of volunteers from the City's business community who provides pro-bono management consulting services to the Mayor and City departments.

- Ask Save the Theaters to provide the Board of Supervisors with a list of theater owners who are willing to sell their properties and neighborhood groups and merchant associations who live/work near the theaters and endorse the project.
- Consider asking the Department of Real Estate to determine the fair market values of the theaters and the Bureau of Architecture within the Department of Public Works to estimate the City's costs to renovate the theaters. Notably, Real Estate would need to hire an independent contractor to appraise the theaters at a cost of approximately \$5,000 per appraisal.



# Overview of Purchase and Capital Improvement Requirements

Possible Target Locations	Address	Built	Current Facility Status	Operational Status	Ownership Status	Est. Price	Proposed Improvements	Est. \$ to Improve	Total
Metro	2055 Union	1924	Excellent condition, remodeled in 1998	Operational	Leased by theater operator. Long-term lease. Purchase property \$2M for longer term use.	\$3M \$5M	Limited, primarily LANMAN wiring, software/hardware, improved lighting, bar facilities	\$1M	\$4M or \$6M
Cinema 21	2141 Chestnut	1927	Boarded. Screen, equipment, speakers, and fixtures removed	Closed 2001	Closed. Owner wants lease to Walgreens. Plans stalled	\$4M	Restoration of seating, possibly organ & remodel exterior part	\$2.5M	\$6.5M
New Mission	2550 Mission	1916	Operating as furniture store. Interior worn but restoration possible.	Closed 1993 Retail	City College in process of selling. Now vacant.	\$2.5 M	Full restoration of theater and installation of non-intrusive alternate-use television production facilities. Art space adjacent	\$8-10M	\$10-12.5M
The Tower	2465 Mission	? 1930s	Operating as church	Church	Owner leasing to church. Organization looking for real church	\$2M	Excellent condition. Minor upgrades, lobby restoration	\$1M	\$3.0M
The Grand	2965 Mission	? 1930s	Operating as a store	Retail	Owner leasing to discount store. Store willing to leave.	\$2M	Divided w/all interior fixtures gone, but excellent original structure, walls	\$1M	\$3.0M
Pygote	1700 Powell St	? 1920s	Closed and boarded	Redesign "50%" complete	Owner selling. Adjacent parking garage and lot may be available.	\$4M \$6M 8.5M	Completion of existing plans (most construction already completed) to add TV facilities to serve Northern areas. Adjacent garage is \$2.5M, lot is \$2M.	\$3M	\$7M or \$9M-11.5M
Cine Latino/Crown	2555 Mission	? 1920s	Blighted.	Closed.	Currently permitted for a rock-climbing gym. Construction stalled.	\$2M	Plan 1st Phase exterior "beautification" only until profits from New Mission TV production can support full restoration including nightclub additional use.	\$2M Exterior (Lower Phase)	\$4M- \$7M
Regency	1320 Van Ness	? 1920s	Premium	Ballroom & office space	Recently on market from interested gym owners. Possible to purchase theater section only at approx. \$4M	\$9M	Restoration of theater. Live performance venue; non-profit office space; central fundraising program ops	\$3M	\$12M

## Save the Theaters

First Year operating Expenses

(\$ in thousands, except per screen, per seat and attendance data)

<b>Save the Theaters Office</b>	YR1
Executive Payroll	\$
	80.0
Assistant to Executive	52.0
Secretary	35.0
Office Space	20.0
Marketing Expenses	80.0
Telephones	15.0
Utilities	4.0
Equipment	25.0
<b>Total Office Operating Costs</b>	<b>311.0</b>
<b>First Theater Expenses</b>	
Manager Salary	52.0
Asst. Manager Salary	40.0
General Staff Salary (6 people, including Bar, Projectionist, etc.)	187.0
Payroll Taxes	28.0
Janitorial Services	25.0
Supplies	25.0
Utilities	60.0
Film Rental	500.0
Concession Purchases	31.2
Bar Purchases	46.8
Trash Collection	45.0
Repairs/ Maintenance	50.0
Misc.	50.0
<b>Total Theater Operating Costs</b>	<b>1143.0</b>
<b>Total Costs for First Year</b>	<b>-1454.0</b>
<b>Theater Income</b>	
Admission Income * (based on projected audiences)	\$ 1,248.0
Concession Income	156.0
Bar Income	187.2
Other Revenue	10.0
<b>Total Operating Revenues</b>	<b>1,601.2</b>
<b>Net Profit Year 1</b>	<b>147.2</b>
<b>* Total Projected Attendance</b>	<b>124,800</b>
Average Ticket Price per Person	10.00
Concession Sales per Person	1.25
Bar Sales per Person	1.50

Projected start-up expenses come to \$954,000 annually of which nearly half is payroll. There is a \$500,000 projected cost for film rental that is estimated on costs to be paid back to the filmmaker, provided they accommodate the local filmmaking guidelines. The remainder is equipment, services and taxes. Donations and corporate gift giving will cover most of the annual start up costs. The remainders will be through artistic grants both locally and nationally.

This is estimated on a single theater in the first year, thus, unfortunately, not realizing the economies of scale on the full eight theaters. Those figures and forecasts are attached.







OLA# 006-04

## MEMORANDUM

TO: Office of Supervisor Maxwell  
FROM: Gabe Cabrera, Office of the Legislative Analyst (OLA)  
DATE: April 12, 2004  
SUBJECT: Police Pursuit Policies in Other Jurisdictions

DOCUMENTS DEPT.

APR 13 2004

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### Executive Summary

The OLA was asked to identify best practices governing police pursuits and to offer recommendations for improving the police pursuit policies of the San Francisco Police Department (SFPD). To this end, we examined policies in three California cities (Los Angeles, San Jose and Oakland) as well as those in five cities outside of the State (Detroit, Philadelphia, New Orleans, Phoenix and Colorado Springs).

Although all of the police departments surveyed including the SFPD recognize the inherent dangers of pursuits and have made efforts to control them (i.e., all of them have recently changed their pursuit policies to make them more restrictive), our research indicates a lack of initial and continuing officer training regarding when and why to pursue (i.e., training is currently focused on the mechanics of defensive and/or pursuit driving rather than on issues that should be considered when deciding to initiate or continue a pursuit).

Issues to consider include, but are not limited to: 1) the severity of the originating crime, 2) safety of the officers, suspects and the public, 3) speeds involved in the pursuit, 4) volume of pedestrian and vehicle traffic, 5) weather conditions, 6) time of day, 7) road conditions, 8) familiarity with the area and 10) whether the suspect is known and can be apprehended at a later time.

The OLA suggests that the SFPD augment its entry-level and ongoing training programs regarding police pursuits. More specifically, the Department could take the following actions:

- Increase the amount of officer training on pursuit policies provided at the San Francisco Police Academy.
- Require officers to complete the currently optional Advanced Officer Training course of 18 hours every two years.

In addition, the Board could pass a resolution urging the SFPD to adopt one or more of the best practices in other jurisdictions (see Best Practices section of this report). Of course, these are policy matters for the Board of Supervisors.



## Background

The basic dilemma associated with police pursuits of fleeing suspects is deciding whether the benefits of potential apprehension outweigh the risks of endangering police officers, the public and suspects in the chase. On the one hand, too many restrictions placed on police pursuits could place the public at risk from dangerous individuals escaping apprehension. On the other hand, insufficient controls on police pursuits could result in needless accidents and injuries.

The SFPD's pursuit policies were implemented in the 1970's and subsequently revised in 1997 to make them more restrictive.

### Major highlights:

- According to the SFPD's General Order 5.05, a vehicle pursuit is an attempt by an officer, while driving an emergency vehicle, to stop a moving motor vehicle when the officer has reasonable cause to stop the vehicle and the driver fails to do so as required by State law.
- When it becomes apparent that the benefits of immediate apprehension are clearly outweighed by an unreasonable danger to the officer or others, the pursuit shall not be initiated or, if already in progress, shall be terminated.
- An unreasonable danger exists when the reason for apprehending the suspect is clearly outweighed by the danger to persons or property (e.g., when the only reason for the pursuit is traffic violations or a misdemeanor, or a non-violent felony).

According to Section 8.343 of the City's Charter, the SFPD Police Commission may reprimand, fine (not to exceed one month's salary), suspend (not to exceed three months) or dismiss an officer who is found guilty of any offense or violation of the Department's rules and regulations (i.e. policies) after a trial and hearing by the Police Commission.

Local media has criticized the SFPD for recent incidents involving suspects who fail to yield.<sup>1</sup> In response, the Department is currently reviewing its pursuit policies to determine if they need to be revised. In addition, on March 29, 2004, the City's Acting Police Chief issued a bulletin to all police personnel reminding them of the inherent dangers of pursuits and the need to follow existing policies.

## Policy

All of the agencies surveyed had written policies governing police pursuits but many had been implemented in the 1970's. Of those who had updated them, most had made them more restrictive to control risk.

We also discovered that as the severity of the crime increases, police departments were more willing to risk the dangers of a pursuit to apprehend suspects. For instance, all of the agencies

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<sup>1</sup> "Family decries police for deadly chase", San Francisco Chronicle, March 6, 2004, Page A-18; "Police kill man in stolen SUV. Cops shoot driver as he backs vehicle toward them", San Francisco Chronicle, March 31, 2004, Page B-4; "Cop who killed suspect not told chase called off. Failure in communications isolated motorcycle officer who shot convicted auto thief", San Francisco Chronicle, April 1, 2004, Page B-4.

surveyed including the SFPD discourage or prohibit officers from initiating pursuits that involve infractions or misdemeanors. Nearly all of these agencies allow officers to initiate pursuits when the suspect is a violent felon. Table 1 below summarizes pursuit policies of the agencies surveyed relative to the severity of the crime.

Table 1

Police Department	Question: Are officers authorized to pursue a suspect who commits the following offense?			
	<i>Infraction</i>	<i>Misdemeanor</i>	<i>Non-violent felony</i>	<i>Violent felony</i>
San Francisco	No	No	No	Yes
Los Angeles	No	Yes except misdemeanor evading or reckless driving	Yes	Yes
San Jose	No	No	Yes except when suspect begins driving without due care	Yes except when the dangers posed by the pursuit outweigh the need to apprehend the suspect
Oakland	No except upon supervisory approval	No except upon supervisory approval	Yes	Yes
Detroit	No	No	Yes	Yes
Philadelphia	No except when actions of a driver pose a continuing danger	No	No except when suspect has stolen a vehicle or possesses a deadly weapon	Yes
New Orleans	No except upon supervisory approval	No except upon supervisory approval	No except upon supervisory approval	No except upon supervisory approval
Phoenix	No	No	No	Yes
Colorado Springs <sup>2</sup>	Yes under low risk conditions	Yes under low risk conditions	Yes under low risk conditions	Yes under low and medium risk conditions

### Training

In an attempt to gauge officer training regarding pursuits, we asked the SFPD and participating agencies the following questions:

- 1) How much entry-level training regarding when and why to pursue is provided at your police academy; and
- 2) How much additional ongoing training regarding when and why to pursue is provided after pursuit policies are updated?

<sup>2</sup> See the Colorado Springs Police Department's pursuit guidance matrix in the Other Jurisdictions section of this report.  
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We discovered that the time devoted to driver training at police academies is typically 40 hours. Once in service, officers receive, on average, 10 hours per year of additional driver training. Notably, this training is focused on the mechanics of defensive and/or pursuit driving rather than on issues that should be considered when deciding to initiate, continue or terminate pursuits. That is, agencies may spend time teaching officers how to pursue but training devoted to when and why to pursue appears to be minimal or nonexistent.

Table 2

Police Department	Entry-Level Training	Additional Ongoing Training
San Francisco	40 hours of training on vehicle operations including 8 hours of classroom training <sup>3</sup>	24 hours of Continuing Professional Training (required) every two years <sup>4</sup> ; 2 of these 24 hours specifically on when and why to pursue; 18 hours of Advanced Officer Training (optional) every two years <sup>5</sup> ; and roll call training on new laws and/or policy changes <sup>6</sup>
Los Angeles	No response	No response
San Jose	34 hours of training including 10 hours of classroom training and 3 hours specifically on when and why to pursue	24 hours of Continuing Professional Training every two years; 4 of these 24 hours specifically on when and why to pursue
Oakland	8 hours of training specifically on when and why to pursue	24 hours of Continuing Professional Training every two years; 1 of these 24 hours specifically on when and why to pursue
Detroit	An unspecified number of hours on precision driving	8 hours of training when the Department's policy manual was updated in 2003; however, normally, officers receive roll call training on new laws and/or policy changes
Philadelphia	40 hours of training including an unspecified number of hours on vehicle pursuits	8 hours of training on vehicle operations every year; if an officer has been involved in an accident while on duty, he/she must receive 2 additional hours of training focused on defensive driving
New Orleans	40 hours of training on defensive and pursuit driving	8 hours of training on defensive and pursuit driving every year and roll call training on new laws and/or policy changes
Phoenix	24 hours of training on pursuit driving	8 hours of In-Service Training (required) every few years; 2 hours of classroom training (required) every two years; 5 hours of continuing training (optional) every year
Colorado Springs	40 hours of training including 8 hours specifically on pursuit driving	Roll call training on new laws and/or policy changes

<sup>3</sup> The State's Commission on Peace Officers Standards and Training (POST) requires that new recruits receive at least 24 hours of training regarding vehicle operations. ([http://www.post.ca.gov/training/bt\\_bureau/curriculum.asp](http://www.post.ca.gov/training/bt_bureau/curriculum.asp))

<sup>4</sup> The POST program is voluntary and participating agencies agree to require their officers to complete the Continuing Professional Training (CPT) requirements of 24 or more hours of training every two years. (POST Regulation 1005, B-8)

<sup>5</sup> The SFPD gives its officers the option of completing an Advanced Officer Training course of 18 hours every two years, which includes a review of when and why to pursue.

<sup>6</sup> Roll call training is a supplementary training technique. It normally involves topics of immediate interest to police personnel, which can be presented in short period of time. One example of roll call training: Staff from the SFPD's Investigations Bureau presenting information on recent crimes or persons involved in crimes.

## Best Practices

Beyond considerations related to the severity of the crime and officer training, the following is a list of best practices in other jurisdictions that have, according to police officials interviewed for this report, minimized the dangers of police pursuits.

- The SFPD could prohibit officers from initiating or continuing a pursuit without express supervisory approval, as is the case in New Orleans. Currently, the SFPD's command level officers (supervising officers) may, at any time, direct the termination of a pursuit for any reason. This policy is slightly different from New Orleans's policy in so far as it allows officers to initiate and continue pursuits without express supervisory approval. In New Orleans, officers may not do so.
- The SFPD could prohibit an officer from driving any faster than 20 M.P.H. over the posted speed limit during pursuits except when driving on the freeway or upon supervisory approval, as is the case in Oakland.
- If the Mayor and the Board were to restore funding for the SFPD's helicopter unit, the Department could then require officers to immediately request the helicopter unit via a radio dispatcher when they initiate a pursuit. The Department's helicopter unit was de-funded in FY 01-02 due to citywide funding shortages and its helicopters were auctioned off to private parties in FY 02-03. The goal of this policy is to allow the helicopter unit to gain visual contact with the suspect until he/she slows or comes to a stop, at which time the helicopter unit can direct officers to the suspect's location, as is the case in Colorado Springs.

Other ideas to consider include increased use of spike strips and installation of video cameras in police vehicles. Although these are not best practices in other jurisdictions, spike strips could minimize the immediate dangers of high speed pursuits while video cameras could encourage officers to follow existing policies, according to SFPD personnel.

## Other Jurisdictions

### City of Los Angeles

In June 2003, Los Angeles (LA)'s Police Commission directed the LA Police Department to activate a 12-month pilot program that if permanently adopted, will revise the Department's policies and procedures as they relate to the initiation, tracking and supervision of pursuits.

#### Major highlights:

- If a ground unit attempts to stop a vehicle for an infraction, misdemeanor evading or reckless driving in response to enforcement action taken by Department personnel, and the driver fails to yield, a pursuit shall not be initiated.
- Instead, officers shall generate an incident report listing the City of Los Angeles as the victim and the involved officer as a witness. Additionally, officers shall indicate what served as the basis of their decision not to pursue (i.e., infraction, misdemeanor evading, etc.)

- If reasonable suspicion or probable cause exists that a misdemeanor (except misdemeanor evading) or felony has occurred, is occurring or is about to occur, officers may pursue.
- Whenever possible, air units (i.e., helicopters) shall assume responsibility for tracking a suspect vehicle. During this tracking, ground units shall continue their response, but should reduce their speed and, if reasonable, maintain a position out of the line-of-sight of the suspect's vehicle to maximize public safety.

### City of San Jose

San Jose's Police Department had written policies governing pursuits but it had been implemented in the 1970's. It updated those policies in September 2001 to make them more restrictive in the interests of public safety.

#### Major highlights:

- When an officer attempts to stop a vehicle, and the driver fails to yield, there is a brief interval where the officer follows the violator with lights and siren activated (Code 3).
- When the violator does not stop, or attempts to avoid capture, a pursuit is initiated. If the driving behavior is reasonably perceived as being non-hazardous, the officer can continue to pursue the vehicle, unless the driving behavior or circumstances change that would make it unsafe to continue.
- Officers who are involved in a pursuit with a non-violent felon, misdemeanor, person suspected of a property crime or vehicle code violator should terminate the pursuit when it becomes apparent the violator exhibits the intent to evade, willfully flees or otherwise attempts to elude the pursuing officers by driving without due care for the safety of others.
- However, officers who are involved in a pursuit with a violent felon who poses a significant, on-going threat to public safety, may continue the pursuit unless specific facts and circumstances change to the point that the danger or serious injury posed by the pursuit to other motorists and pedestrians outweighs the need to apprehend the violator.

### City of Oakland

In April 2000, the Oakland Police Department revised its vehicle pursuit policies to make them more restrictive in the interests of public safety. Interestingly, the Department maintains a maximum speed limit for officers during pursuits as described below.

#### Major highlights:

- A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a subject operating a motor vehicle while the subject is trying to avoid arrest by using high speed driving or other evasive tactics.
- A failure to yield does not constitute a pursuit unless the driver's actions demonstrate the above factor.
- In addition, except upon the approval of a commander or supervisor in the field, an officer shall not initiate a vehicle pursuit when the only known underlying criminal violation is a non-firearm related misdemeanor or infraction of the State Vehicle Code.
- During pursuits, officers shall not drive any faster than 20 M.P.H. over the posted speed limit except when driving on the freeway, or upon supervisory or command approval.

## City of Detroit

Detroit Police Department's vehicle pursuit policy was implemented in the late 1960's and revised in 2003. Department officials stated that this new policy is more restrictive and has substantially reduced the number of pursuits.

### Major highlights:

- Officers attempting to stop a vehicle shall activate their roof lights and direct the driver by visual or audible signal to bring the car to a stop. If the attempt to stop the vehicle fails, officers shall activate the headlights and siren of their vehicle prior to initiating a pursuit. Officers shall activate their roof light and/or siren when attempting to catch up to a suspect vehicle.
- A pursuit shall only be initiated for the following:
  - 1) If an officer has probable cause to believe a felony has been, is being or is about to be committed.
  - 2) If an officer observes offenses wherein the conduct of the offense poses such an imminent danger to the public at large that the anticipated hazards of pursuit are outweighed by the danger posed by allowing the conduct to continue.
- Once the helicopter unit establishes visual contact with the pursued vehicle, the helicopter unit will assume the role of primary unit and shall begin assisting and coordinating the ground activities. The ground units, upon being advised by the zone dispatcher the helicopter unit has assumed the role of primary unit, shall reduce their speed and proceed with caution as directed by the helicopter unit to the culmination point of the pursuit.

## City of Philadelphia

The vehicle pursuit policies of the Philadelphia Police Department have been revised several times since they were implemented in the 1970's. The latest revision was in February 1994 to make them more restrictive.

### Major highlights:

- A pursuit is the operation or use of a police motor vehicle where the officer has probable cause to pursue a suspected violent felonious criminal, a person fleeing in possession of a deadly weapon which they have used or indicate they are about to use, or when an officer has probable cause to believe a vehicle is stolen and the driver is willfully or knowingly using illegal or evasive driving tactics in an effort to avoid arrest.
- A pursuit shall only be initiated for the following:
  - 1) The initiating police officer is in close proximity to a suspect, driving a motor vehicle, with the emergency equipment activated (light bars and siren) and the suspect fails to yield;
  - 2) The police officer has probable cause to believe that the suspect has committed, has attempted to commit or is attempting to commit a violent felony or in accordance with one of the following exemptions:



- a) A pursuit may be undertaken for a stolen vehicle and for a person fleeing police who is in possession of a deadly weapon that they have used or indicates that they are about to use.
- b) In reference to motor vehicle violations, if the actions of a driver of a motor vehicle are so callous as to present a continuing danger to the public, the officer may pursue the vehicle.
- Police officers shall not become involved in pursuits for motor vehicle violations only.

### **City of New Orleans**

New Orleans Police Department's pursuit policies are fairly new. They were implemented in April 1997 but have been subsequently revised five times in the interests of public safety. No pursuits may be initiated without express supervisory approval as described below.

#### Major highlights:

- A vehicle pursuit is the active attempt to apprehend the occupants of a vehicle when the driver refuses to stop. The officer shall activate his/her unit's lights and siren in attempt to stop the offender. Once the offender indicates through his/her actions that he/she does not intend to comply with the officer's direction, a pursuit may be initiated.
- However, no pursuit shall be initiated or continued without the express approval of a Platoon Supervisor of the district of the occurrence.
- When an officer had made the determination that he/she wishes to request to initiate a pursuit, he/she must immediately broadcast his/her intention to his/her Platoon Supervisor. The Platoon Officer must immediately respond to that broadcast, make himself/herself available and approve/disapprove the pursuit.
- Any officer may initiate a pursuit with express supervisory approval when one or more of the following criteria are met:
  - 1) The suspect exhibits the intention to avoid apprehension through evasive or unlawful tactics;
  - 2) The suspect operating the vehicle refuses to stop at the direction of the officer; or
  - 3) The violation is such that a failure to pursue would further enhance the danger presented to the public.

### **City of Phoenix**

The vehicle pursuit policies of the Phoenix Police Department were most likely implemented in the 1970's and revised at least once in December 2002.

#### Major highlights:

- A pursuit is any attempt by an officer, operating an authorized emergency vehicle, to apprehend occupants of a moving vehicle when the driver is aware of that attempt and is resisting apprehension including: maintaining or increasing speed, disobeying traffic laws, ignoring the officer and attempting to elude the officer.
- When an officer initiates a pursuit he/she must immediately activate the vehicle's emergency lights and siren and request an air unit via the radio dispatcher. When the air unit advises that

the suspect vehicle is in view, all ground units will turn off their emergency lights/sirens and make every effort to move to a position where they can no longer be seen by the suspect.

- Officers should consider terminating a pursuit when the pursuit occurs during rush hour and/or is in the areas of a school.
- Pursuits should be immediately terminated when the suspect is known to the officer, the offense is a traffic infraction, misdemeanor or non-violent felony.

### City of Colorado Springs

In March 2003, the Colorado Springs Police Department revised their pursuit policies to make them more restrictive in the interests of public safety. The Department has developed a pursuit guideline matrix to help officers/supervisors to determine whether or not to pursue.

#### Major highlights:

- The Department expects officers who initiate a pursuit to continually evaluate the pursuit itself, and the circumstances surrounding it, based on a continuum of risk factors versus the seriousness of the offense, according to the following pursuit guideline matrix.

<i>Seriousness of Offense</i>	<i>Low Risk</i>	<i>Medium Risk</i>	<i>High Risk</i>
Violent felony	Authorized	Authorized	Caution
Felony-misdemeanor against persons	Authorized	Prohibited	Prohibited
All property crimes to include motor vehicle thefts	Authorized	Prohibited	Prohibited
Traffic violations to include DUI's	Authorized	Prohibited	Prohibited

- A field supervisor will determine, based on the pursuit matrix guideline, whether to allow the pursuit to proceed.
- Upon arriving in the area, the helicopter unit will obtain visual contact of the suspect vehicle and advise ground units that they have assumed responsibility of the pursuit. Once this occurs, all ground units will turn off emergency lights and sirens and will either stop on the side of the road or change direction, causing the suspect driver to believe that the pursuit has been terminated. The intent is to allow the helicopter unit to maintain visual contact with the suspect vehicle until the suspect vehicle slows or comes to a stop, at which time the helicopter unit can direct ground units to the suspect's location.

### Conclusion and Recommendations

In closing, although all of the police departments surveyed including the SFPD recognize the inherent dangers of pursuits and have made efforts to control them (i.e., all of them have recently changed their pursuit policies to make them more restrictive), our research indicates a lack of initial and continuing officer training regarding when and why to pursue (i.e., training is currently focused on the mechanics of defensive and/or pursuit driving rather than on issues that should be considered when deciding to initiate, continue or terminate pursuits).

Therefore, the OLA suggests that the SFPD augment its entry-level and ongoing training programs regarding police pursuits. More specifically, the Department could take the following actions:

- Increase the amount of officer training on pursuit polices provided at the San Francisco Police Academy.
- Require officers to complete the currently optional Advanced Officer Training course of 18 hours every two years. Potentially, this course could be made available to officers on a staggered basis relative to the State's biennial training requirements.

Lastly, the Board could pass a resolution urging the SFPD to adopt one or more of the best practices in other jurisdictions. Of course, these are policy matters for the Board of Supervisors.

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(OLA #:015-04)

## LEGISLATIVE ANALYST REPORT

DOCUMENTS DEPT.

**To:** Members of the Board of Supervisors  
**From:** Adam Van de Water, Office of the Legislative Analyst  
**Date:** June 30, 2004

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**RE:** Economic Impact of Proposed Business and Sales Taxes (File No. 040877)

### SUMMARY AND SCOPE OF REQUEST

Supervisor Hall, through the Board, requested the Office of the Legislative Analyst (OLA) provide a comprehensive Economic Impact Report of the proposed Transaction and Use Tax and Business Tax increases. The Board approved this request June 22, 2004 and Supervisor Hall requested this information by June 30, 2004.

### EXECUTIVE SUMMARY

Mayor Newsom has proposed ordinances enacting a sales tax increase of 0.25% and a gross receipts tax of 0.1% together with clarification of the payroll expense for partnerships and pass-through entities. Both items are pending final Finance and Audits Committee action prior to Board consideration, and, if approved by the Board, would be subject to voter approval on the November ballot.

The Controller's Office has certified the revenues these two proposals would generate if approved: A sales tax increase of 0.25% would generate between \$7 and \$8 million and a gross receipts tax of 0.1% together with the payroll expense for partnerships and pass-through entities would generate between \$15 and \$20 million in FY2004-05.

These two measures would give San Francisco the most expensive business taxes in the region and, along with Alameda County and the City of Avalon, the highest sales tax rate in the state.

The OLA projects that the sales tax: 1) will cost the average San Francisco household \$34 per year, 2) may induce a small number of consumers to make large purchases out of county, and 3) could lead to proportional increases in prices in those few highly competitive industries currently competing at the margin.

The OLA projects that enactment of a gross receipts tax of 0.1%: 1) would raise the taxes of businesses with gross receipts over \$500,000 by 0.1% of gross receipts, 2) may contribute to the perception that San Francisco is not "business friendly," and 3) will provide the City with data to assess business activity and alternate business tax structures.



## BACKGROUND

Mayor Newsom introduced two ordinances amending the Business and Tax Regulations Code to raise General Fund revenues in FY 04-05. Both are subject to voter approval in November 2004. The first (BOS File #040751) would increase the Transactions and Use Tax (commonly referred to as the sales tax) by one-quarter of one percent (0.25%), from 8.50 percent to 8.75 percent. The second (BOS File #040758) would impose a five-year Gross Receipts Tax of one tenth of one percent (0.1%) on the gross receipts of all persons engaging in business in San Francisco and would clarify the payroll expense for partnerships and pass-through entities<sup>1</sup>. The City Controller's Office estimates that voter approval of these two ordinances would generate additional revenues in FY 2004-05 of \$7 to \$8 million and \$15 to \$20 million respectively. Both items are currently under consideration of the Finance and Audits Committee.

### **Sales Tax**

Since 1974, the San Francisco sales tax rate has increased eight times from 6.50 percent to the current rate of 8.50 percent. The last time the Board of Supervisors adjusted local sales taxes was in 1993. By state law, local governments can enact up to 2.00% in local sales taxes. Raising the San Francisco sales tax by 0.25% would bring the total local share to 1.50%, or 0.50% below that allowed by law. Table I at right shows a breakdown of sales tax revenues received by the City by major category.

**Table I:**

#### **Sales Tax Revenue Base, FY02-03 Actuals**

<b>Major Categories</b>	<b>% of Total</b>
<b>General Consumer Good</b>	30.1%
<b>Restaurants and Hotels</b>	19.1%
<b>Business &amp; Industry</b>	14.9%
<b>Autos &amp; Transportation</b>	6.1%
<b>Food &amp; Drugs</b>	6.0%
<b>Building &amp; Construction</b>	4.6%
<b>Fuel &amp; Service Station</b>	3.5%
<b>County &amp; State Pool<sup>2</sup></b>	15.7%
<b>TOTAL</b>	<b>100.0%</b>

*Source: Controller's Office, February 2004*

### **Gross Receipts Tax**

San Francisco first adopted a gross receipts tax based on Los Angeles' gross receipts model in 1968. In the 1970s, the City added the payroll expense tax and allowed businesses to pay either the payroll tax or the gross receipts tax (the so-called "alternative method"), the constitutionality of which the City was later challenged for in court in 1999. In 2001 the City settled the litigation and eliminated the gross receipts tax retroactively to January 1, 2000 resulting in a net loss to the City of approximately \$20 million annually<sup>3</sup>. Prior to that time, the City was collecting 0.3% of total gross receipts from most businesses that paid the tax. These revenues came from the following business categories (see Table II).

<sup>1</sup> Such as certain law, architectural and engineering, medical/dental, accounting and other consulting firms where the principals have an ownership interest.

<sup>2</sup> County pool sales activity includes the sale of used cars between private parties as well as large or specialized equipment purchased from an out-of-area manufacturer, but which is put into 'use' in San Francisco.

<sup>3</sup> Controller's presentation to Finance Committee, June 12, 2002.





**Table II: Tax Year 1998 Gross Receipts Collection, By Category of Business**

<b>Business Categories</b>	<b>Count</b>	<b>GR Tax Paid</b>	<b>% of Total</b>
Contractors	266	\$6,611,506	23.3%
Retail Sales	274	\$2,965,829	10.5%
Commission Merchant or Broker	66	\$1,600,220	5.6%
Wholesale Sales	129	\$1,225,697	4.3%
Personal Property Rental	47	\$736,137	2.6%
Hotels, Apartments, etc.	54	\$622,504	2.2%
Telephone, Gas, Electric	12	\$254,434	0.9%
Architects and Engineers	19	\$153,882	0.5%
Transporting Persons for Hire	6	\$129,597	0.5%
Trucking, Hauling	3	\$119,528	0.4%
Storage, Freight Forwarding	13	\$56,241	0.2%
Laundry, Cleaning and Dye	3	\$14,066	0.0%
Other	812	\$13,838,356	48.9%
<b>TOTAL</b>	<b>1,704</b>	<b>\$28,327,997</b>	<b>100%</b>

*Source: Controller's Office June 12, 2002 Presentation to Finance Committee*

### **ANTICIPATED IMPACTS OF RAISING THE SALES TAX**

The OLA anticipates that raising the sales tax by 0.25% would have the following impacts.

#### **#1: Increased General Fund Revenues of \$7 to \$8 Million in FY2004-05**

If placed on the ballot and approved by voters in November, the 0.25% increase would become effective April 1, 2005. The Controller has estimated that approval of this sales tax increase would generate one fiscal quarter of additional General Fund revenues in FY2004-05, or between \$7 and \$8 million. In FY2005-06, the sales tax increase would generate an additional four fiscal quarters of revenue or between \$28 and \$32 million.

#### **#2: Additional Costs to Households of \$34 per Year**

The Controller has estimated that the proposed sales tax increase will cost the average San Francisco household \$34 per year (see attached Controller's Office calculation "Sales Tax Increase – HH Impact")<sup>4</sup>. This would likely have little impact at the margin for most San Francisco households and is unlikely to impact countywide consumption patterns.

The impact will likely be greatest for lower income consumers with little or no savings and for whom higher consumer prices represent a larger percentage of their incomes. However, this disproportionate impact on the poor is offset somewhat by two factors. First, most basic needs such as housing and eligible grocery and medical items are exempt from sales tax. Second, San

<sup>4</sup> Conversation with Todd Rydstrom, Director of Budget and Analysis, Controller's Office, June 25, 2004. The median annual household income in San Francisco, according to Census 2000, was \$57,259. \$34 per household per year is the equivalent of spending roughly 1/5<sup>th</sup> of gross household income on goods subject to sales tax.



Francisco households account for approximately one-third of all revenues accruing as a result of the proposed sales tax increase. Businesses, tourists and the daytime population pay the remaining two-thirds.

### #3: Marginal Geographic Shifts Related to Large Non-Vehicle Purchases

The proposed sales tax increase would mean San Francisco, along with Alameda County and the City of Avalon in Los Angeles County, would have the highest sales tax rate in the state. To the extent that consumers are aware of this differential, this may induce some to travel outside of the county for some large purchases where prices would be up to 1.5% less. The following example illustrates this potential geographic impact.

In most cases other than motor vehicles (where the county of registration determines the total sales tax rate), the point of sale determines the sales tax rate applied to purchases. As shown in Table III below, all else being equal, the same \$2,000 item purchased in San Francisco would cost \$30 less in Marin and \$10 less in San Mateo, Santa Clara, and Contra Costa counties.

**Table III: Total State and Local Sales Tax Rates in Five Neighboring Counties**

County	Sales Tax Rate	Taxes Paid on \$2,000 Purchase	Cost/ (Savings) From Proposed SF Rate
San Francisco (current)	8.50%	\$170	(\$5)
San Francisco (proposed)	8.75%	\$175	-
San Mateo	8.25%	\$165	(\$10)
Alameda <sup>5</sup>	8.75%	\$175	-
Marin	7.25%	\$145	(\$30)
Santa Clara	8.25%	\$165	(\$10)
Contra Costa	8.25%	\$165	(\$10)

*Source for Rates: CA State Board of Equalization. Rates effective 7/1/04.*

This not only impacts San Francisco businesses but it also affects revenues to the City and County. As most sales taxes are computed at the point of sale and not the point of use, tax dollars spent out of county are revenues foregone by the City. In the case of a \$2,000 item purchased in Marin and not San Francisco, under the proposed San Francisco sales tax rate of 8.75% this would amount to a tax revenue loss of up to \$75 to the City<sup>6</sup>.

Given the variety of factors involved in making a large purchasing decision (including customer convenience, product availability and features, travelling time, financing terms, delivery, warranty and maintenance issues, etc.), the OLA does not expect that raising the sales tax by 0.25% would create any new measurable geographic impacts.

<sup>5</sup> Alameda County will increase its sales tax rate by 0.50% effective July 2004 due to the passage of Measure A.

<sup>6</sup> Depending on state re-allocation. 5.0% of California's overall sales tax rate is dedicated to the State General Fund and another 1.0% is collected by the state and redistributed to local governments for health, welfare, and public safety. For San Francisco, the remaining 2.75% is collected by or allocated to cities and counties for transportation (including 0.5% to BART, 0.25% to MUNI and 0.5% to the Transportation Authority), schools (0.25% to SFUSD), and general fund purposes (1.0%).



#### **#4: Negligible Increases in the Price of Consumer Goods**

Economic research suggests that sales tax increases not only increase the cost but also drive increases in the price of the good.<sup>7</sup> To the extent that businesses are fully competitive at the margin (in other words, where an additional 25 cents on the \$100 may change consumer behavior), the OLA expects businesses will pass on this cost to the consumer.

### **ANTICIPATED IMPACTS OF ENACTING A GROSS RECEIPTS TAX**

The OLA anticipates that enacting a 0.1% Gross Receipts Tax would have the following impacts.

#### **#1: Increased General Fund Revenues of \$15 to \$20 Million in FY2004-05**

If placed on the ballot and approved by voters in November, a Gross Receipts Tax of 0.1% would become effective January 1, 2005 and expire January 1, 2009<sup>8</sup>. The Controller has estimated that approval of this gross receipts tax increase, together with clarification of the payroll expense for partnerships and pass-through entities, would generate two fiscal quarter's worth of additional General Fund revenues, or between \$15 and \$20 million in FY2004-05. The same ordinance would generate an additional \$30 to \$40 million in FY2005-06.

#### **#2: Additional Costs to Most Businesses = 0.1% of Gross Receipts**

There are approximately 31,000<sup>9</sup> non-farm private businesses in San Francisco (see Table IV below), grossing approximately \$44 billion<sup>10</sup> per year. Most of these businesses have less than ten employees and roughly one-third qualify as 'small business enterprises' with gross receipts under \$500,000<sup>11</sup> which are exempted from the gross receipts tax. The remainder would see their taxes increase by 0.1% of gross receipts for the next four years<sup>12</sup>.

<sup>7</sup> Looking at clothing price reactions to changes in state and local sales taxes in two periods – the interwar period of 1925-1939 when many states first enacted sales taxes and the postwar expansion of 1947-1977 – MIT Economist James M. Poterba concluded that "retail sales taxes are fully forward shifted, raising consumer prices by the amount of the tax increase." See "Retail Price Reactions to Changes in State and Local Sales Taxes" *National Tax Journal*, June 1996; 49, 2; ABI/INFORM Global, pg. 165.

<sup>8</sup> As amended in Finance Committee June 29, 2004.

<sup>9</sup> Nearly 65,000 businesses are registered with the City. The majority of the difference are likely sole proprietorships which would likely qualify as a small business and therefore be exempt from the gross receipts tax.

<sup>10</sup> Controller's estimate of SF County's share of the \$93 billion regional Gross Metropolitan Product, minus public sector revenues.

<sup>11</sup> Section 954.1 of the proposed Business Tax exempts businesses who filed a tax return last year and "whose tax liability under this Article, but for the small business exemption in this Section, would not exceed \$500." With a gross receipts tax of 0.1%, a business would have to generate over \$500,000 to pay the gross receipts tax.  $\$500 = \$500,000 \times 0.001$ .

<sup>12</sup> As amended June 29, 2004.





**Table IV: Number of San Francisco Establishments by Industry and Employment Size**

Employment size	All industries	Mining/ Utilities Construction	Manufacturing	Wholesale & Retail Trade	Transportation & Information	FIRE *	Services
1-4	16,939	903	448	3,005	781	2,201	9,125
5-9	5,815	307	215	1,300	225	677	3,041
10-19	3,902	181	201	768	173	457	2,106
20-49	2,817	119	176	438	194	308	1,568
50-99	935	39	57	115	77	107	539
100-249	532	22	24	45	43	77	318
250-499	163	5	7	9	25	25	92
500-999	62	2	2	2	7	16	33
1000 +	37	2	--	2	3	6	23
<b>Total</b>	<b>31,202</b>	<b>1,580</b>	<b>1,130</b>	<b>5,684</b>	<b>1,528</b>	<b>3,874</b>	<b>16,845</b>

Source: CA Department of Finance, *Economic Research Division, February 2002*

\* = Finance, insurance, real estate, rental, and leasing

### #3: Possible Further Perception that SF is not “Business Friendly”

The proposed gross receipts tax is in addition to the current 1.5% Payroll Expense Tax and Business Registration Tax of between \$25 and \$500. In Fiscal Year 2002-03, the City Treasurer/Tax Collector collected from businesses over \$10 million in Registration Taxes and \$266 million in Payroll Taxes. Adding a gross receipts tax could further the claim that San Francisco is not “business friendly” relative to neighboring cities, which could deter new businesses from locating in San Francisco.

As a means of illustrating a business’ tax burden relative to other cities in the Bay Area, the OLA chose two businesses – a mid-sized retail establishment and a large consulting firm – and compared their estimated annual business tax payments in San Francisco and five Bay Area cities. The results are presented in Appendix A and show that, at least for the two examples, San Francisco has the highest business taxes in the region, in some cases by a large factor. To the extent that the benefits of city services and/or a central location do not compensate for this higher tax rate, new businesses could justify locating out of county based, in part, on this tax differential.

### #4: Improved Assessment of Business Activity

Taxing the gross receipts of a business rather than its payroll is a more common form of local government taxation in the Bay Area and better represents the total sales activity of that business. Under the current San Francisco tax structure, businesses such as restaurants and retail with high payroll costs and lower gross receipts pay a larger percentage of their revenues in taxes than do businesses such as commercial real estate interests that tend to have high gross receipts and low total payroll.

# THE HISTORY OF THE UNITED STATES

OF THE UNITED STATES OF AMERICA

FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME

BY J. W. FULTON

NEW YORK: PUBLISHED BY J. W. FULTON

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San Francisco had a gross receipts tax until January 1, 2000, when it was repealed on a constitutional technicality. On June 5 and June 12, 2002, the Board's Finance Committee held public hearings to explore the possibility of restoring the gross receipts tax as a "broad-based" and "fair" means of assessing business activity.

### CONCLUSION

Should the Board forward, and the voters approve, a sales tax increase of 0.25% and a gross receipts tax of 0.1%, the OLA projects the following impacts:

- FY 04-05 General Fund revenues of \$7 to \$8 million and \$15 to \$20 million, respectively,
- Additional costs to households of approximately \$34 per year in additional sales taxes and to businesses equal to 0.1% of gross receipts for four years (other than small businesses with gross receipts under \$500,000),
- Establishment of San Francisco as the highest sales tax rate in the state (along with the City of Avalon and Alameda County) and the highest business taxes in the Bay Area,
- Minimal increases in the cost of goods and possible isolated geographic impacts,
- Possible furtherance of the perception that San Francisco is not "business friendly", and
- Creation of a more accurate means for the City to assess business activity.



**APPENDIX A: TOTAL BUSINESS TAXES PAID IN FIVE NEIGHBORING CITIES BY A MID SIZED  
RETAIL ESTABLISHMENT AND A LARGE CONSULTING FIRM**

City (County)	Local Business Taxes	Mid-Sized Retail <sup>13</sup>	Large Consulting Firm <sup>14</sup>
San Francisco (current)	1.5% Payroll Tax + \$25 - \$500 Registration Tax	\$5,400	\$45,250
San Francisco (proposed)	1.5% Payroll Tax + \$25 - \$500 Registration Tax + 0.1% Gross Receipts Tax	\$6,150	\$51,250
San Mateo (San Mateo)	Gross receipts over \$100,000 = \$143.50 + \$3.60 for each \$5,000 thereafter	\$612	\$4,392
Oakland (Alameda)	Registration Fee + \$0.60 to \$13.95 per \$1,000 gross receipts, depending on classification	\$930	\$21,630
San Rafael (Marin)	\$100 processing fee + License tax based on business category and annual gross receipts	\$510	\$2,400
San Jose (Santa Clara)	\$150 Registration Fee + \$18 per every employee over eight employees	\$276	\$636
Walnut Creek (Contra Costa)	Rate dependant on annual gross receipts	\$373	\$1,504

*Sources: Office of the SF Treasurer/Tax Collector, Telephone Conversations with City Agencies.*

<sup>13</sup> Mid-sized retail defined as 15 employees, with a Total Payroll of \$350,000 and Gross Receipts of \$750,000.

<sup>14</sup> Large Consulting Firm defined as 35 employees, with a Total Payroll of \$3m and Gross Receipts of \$6m.



# THE HISTORY OF THE UNITED STATES OF AMERICA

BY HENRY ADAMS

VOLUME I

THE FOUNDING OF THE NATION

1776-1789

THE REVOLUTIONARY WAR

1776-1781

THE CONSTITUTION

1787-1789

THE EARLY REPUBLIC

1789-1800

THE JEFFERSONIAN ERA

1800-1809

THE MONROE DOCTRINE

1823-1825



# Sales Tax Increase – HH Impact

Consumption Composition	% of CPI Basket*	% Subject to Sales Tax		Median HH Income <sup>a</sup>		Estimated Annual Cost per Household from Sales Tax Increase of 0.25%	
		[Conservative Scenario]	Subject to Sales Tax	Spending After Inc. Tax & Savings	45,650		
1 Food & Beverage	17.910%						
Food at home	10.196%						
Food away from home	7.714%	100%	7.714%		3,521	\$	9
2 Housing	42.087%						
Apparel & Upkeep	6.518%	100%	6.518%		2,975	\$	7
4 Transportation	18.874%						
New Vehicle	5.517%	100%	5.517%		2,519	\$	6
Motor Fuel	5.517%	100%	4.847%		2,213	\$	6
5 Medical Care	5.031%						
Entertainment	4.461%	50%	2.231%		1,018	\$	3
7 Other Goods & Services	5.119%	50%	2.560%		1,168	\$	3
Total	100.000%		29.386%		13,415	\$	34

<b>Other Model Assumptions</b>	
Average Income Tax Burden	15.0%
Average Savings Rate	2.0%
# of Households [HH] in SF <sup>a</sup>	329,700
Residential as % of 911 Lines	23.7%

<b>Estimated Annual FY 2004-05 Revenue (US\$ mil.)</b>	
SF Households - Residents	\$ 11.06 36%
Business-to-Business, Tourists, Daytime Workers...	\$ 19.69 64%
Total	\$ 30.75 100%

Source: \* <http://www.bls.gov/ore/pdf/sts0200.pdf>, 1982-84 Series

<sup>a</sup> 2000 Census

Source: Controller's Office, June 2004





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## LEGISLATIVE ANALYST REPORT

**To:** Honorable Members of the Board of Supervisors  
**From:** Shira Gans, Alice Kessler, and Adam Van de Water, Office of the Legislative Analyst  
**Date:** September 10, 2004  
**Subject:** **Processing of Invoices and Payments on City Contracts** (File No. 031749)

### SUMMARY OF REQUESTED ACTION

On October 21, 2003 Supervisors Ma and Maxwell requested that the Office of the Legislative Analyst (OLA) compare and contrast San Francisco's current practices and policies for processing invoices and payments on City contracts to model municipalities, the State of California and the San Francisco International Airport. In addition, the OLA was asked to consider the feasibility of implementing a successful system in San Francisco.

### EXECUTIVE SUMMARY

This report finds that late payments to vendors are a symptom of systemic problems in San Francisco's procurement policies and procedures. Research suggests that both centralized and decentralized systems can be effective. However, for a procurement system to run efficiently, procedures should be standardized whenever possible. Creating uniform policies can help reduce confusion both in city departments and among vendors. In order to reduce confusion and complications further, information regarding policies and procedures should be easy to obtain and to understand both for vendors and department staff. To minimize incidents of late payments, contracts should be processed and certified at the earliest possible date and work should not begin until the certification process is complete. In this report, the OLA recommends various methods for improving San Francisco's contracting process.

### BACKGROUND

#### **The City's Contracting Process**

The City's current system of awarding contracts is decentralized, with different types of contracts handled by different departments. Individual departments award contracts for professional services, such as consulting, accounting, legal or medical services. The departments create the Request-for-Proposals (RFP), select the vendors, but require a final approval from Purchasing before executing the official contract. Once Purchasing reviews the signed contract materials, they ensure that money is encumbered for payment and sign off on the contract.<sup>1</sup>

The Purchasing Department awards contracts for products and general services based on competitive bidding (unless the contract is for goods up to \$10,000, in which case other departments can place their own orders

<sup>1</sup> General Business Information (How to do Business with the City and County of San Francisco), Chapters 1 and 3, <http://www.sfgov.org/oca/purchasing/dobiz/dobiz2.htm>. Interview with Bill Jones, Assistant Director of Purchasing, July 26, 2004.

using a Departmental Purchase Order). Several City departments can award contracts for construction and for architects and engineers. These include the Airport, the Port, the citywide Public Utilities Commission, Public Works and Recreation and Park. Construction contracts are awarded based on competitive bidding, while contracts with architects and engineers are usually formed using a RFP process.

Following the award of a contract, the City imposes strict rules regarding delivery and acceptance of goods and services. If a vendor does not follow the City's protocol carefully, the City may be released from its obligation to pay on time. Some examples of delivery and acceptance problems that can result in delayed payment include partial shipment of goods, delivery to the wrong location or substandard performance of a service.<sup>2</sup>

Assuming there are no problems with delivery and acceptance, invoices are processed by various departments. Purchasing processes Purchase Orders, Contract Purchase Orders and Blanket Purchase Orders for equipment and supplies, general services, and professional services contracts. Departments issue purchase orders for construction, grants and other specialty contracts. Departments, not Purchasing, process invoices. After processing the invoice, all departments submit a request for payment to the Controller's Office. The Controller writes checks after all approvals are met. Some departments have online capabilities to submit payment requests to the Controller. Other departments continue to use a paper system.<sup>3</sup>

### **The Problem as Perceived by Non-Profits Doing Business with the City**

A number of non-profit organizations that contract with San Francisco have complained that the City does not pay invoices promptly. Evidence of this problem is documented in a number of reports gathered by the OLA. These include a survey by the Human Services Network, the San Francisco Civil Grand Jury, the San Francisco Non-Profit Task Force and the Controller's Office. Each of these reports reaches a similar conclusion that the City's decentralized contracting process places administrative strain on non-profits and often results in late or interrupted payment of invoices. Non-profits feel that this places an unfair burden on them as organizations with limited budgets and hampers the extent to which they can provide adequate services to San Francisco residents.<sup>4</sup>

### **Other Perspectives**

City departments that administer contracts and the Controller's Office have expressed perspectives on the issue of prompt payment that diverge from the view of non-profits. Departments claim that their invoice processing systems are effective. According to the departments surveyed, the problem of delayed payment is more likely the result of contractor noncompliance with contract terms, City requirements and other formalities. For more details on how departments process invoices please see Appendix A.

### **CONTROLLER'S OFFICE**

From the Controller's point of view, the City is relatively efficient at processing payments. It is the Controller's duty to pay vendors once departments submit payment requests. The Controller presented to the OLA a post-audit report that indicates over 90% or more of the transactions that sit in the office's financial system get

<sup>2</sup> Ibid, Chapter 8.

<sup>3</sup> Ibid, Chapter 9.

<sup>4</sup> See email correspondence with Glynn Washington, Administrator of the San Francisco Human Services Network (April 5, 2001 and April 10, 2001); Non-Profit Contracting, a Report of the 2000-2001 San Francisco Civil Grand Jury; Report to the Board of Supervisors on Resolution No. 835-02, Non-Profit Contracting Task Force, City and County of San Francisco (June 26, 2003); Survey of Non-Profit, Community Based Contractors, Controller's Office, City and County of San Francisco (April 2000).

processed within 8 calendar days.<sup>5</sup> In addition, the Mayor's Budget Book for Fiscal Year 2003-2004 shows a projected performance measure of 81% for documents needing approval by the Controller within 5 calendar days.<sup>6</sup> The Controller speculates that perceived delays in payment are related to departmental holdups in submitting payment requests or flaws in the contract certification process that release the City from its obligation to pay vendors on time.<sup>7</sup>

### DEPARTMENT OF PUBLIC HEALTH

The Department of Public Health (DPH) processes over 500 contracts per year for over \$200 million worth of services. A majority of these contracts are with nonprofit organizations that provide mental health, substance abuse, HIV health, TB, STD, and primary care services.

While DPH gave no measure of performance, it claimed that its system of handling invoices is efficient on the whole. DPH cited contract certification as the culprit and enumerated various aspects of certification that may lead to payment delay. The three most common reasons for delays in certification are the expiration of a vendor's insurance, a delay in award letters from funding sources, and lengthy contract negotiations.<sup>8</sup> Also, delays may result where departments fail to ensure compliance with equal benefits or sole source requirements or fail to obtain Human Right Commission (HRC) or civil service approvals prior to the date the contractor starts work.<sup>9</sup>

According to DPH, ensuring that a contract is certified before beginning work is not always viable. Since the Board does not appropriate the budget until the middle of July, DPH does not know how much money it has for its contracts until after the fiscal year has begun. Vendors often continue providing services during the certification renewal process in order to maintain continuity of service and care. DPH has to extend prior year's contract for six month periods while the new contract is being certified. These types of contract extensions are especially important in the instance of residential treatment centers.

Once the funds have been appropriated, the new contract can be processed and certified. However, DPH then is responsible for back paying vendors the difference between the old contract rate and their new fiscal year rate.<sup>10</sup> DPH also receives funding from the state and federal level. As a result, they have seven different contract funding cycles.<sup>11</sup>

### DEPARTMENT OF PUBLIC WORKS

DPW identified the following underlying problems that result in delayed payment to vendors: 1) contract requirements are not followed (e.g., HRC payment forms are not attached, rates are not in accordance with the contract, insurance coverages have expired, proper documentation is not attached per the contract, etc.); 2) the contract has expired and no modification was put in to extend the contract; 3) the account has insufficient funding (although contracts are encumbered ahead of time, if overall funding from the Controller is unavailable, Accounting cannot post a payment to the system); or 4) no contract was encumbered in the system but because of an emergency, work had to be performed.<sup>12</sup>

<sup>5</sup> Email correspondence with Peg Stevenson, City Projects Division Manager, Office of the Controller (February 9, 2004).

<sup>6</sup> Mayor's Proposed Budget 2003-2004, Willie L. Brown, Jr., Mayor, p. 131.

<sup>7</sup> Ibid, email correspondence with Peg Stevenson.

<sup>8</sup> Email correspondence with Galen Leung, Director, Office of Contract Management & Compliance, DPH, July 8, 2004.

<sup>9</sup> Email correspondence with Anne Okubo, Deputy Financial Officer, Department of Public Health, April 5, 2004, and telephone conversation with Naomi Little, Purchaser, August 31, 2004.

<sup>10</sup> Telephone interview with Anne Okubo, DPH, August 11, 2004.

<sup>11</sup> Email correspondence with Galen Leung, Director, Office of Contract Management and Compliance, DPH, July 8, 2004.

<sup>12</sup> Email correspondence with Nini Leigh, Accounting Manager, Department of Public Works, April 5, 2004.



## HUMAN RIGHTS COMMISSION

Cynthia Goldstein in the Human Rights Commission's Equal Benefits Ordinance Department, identified a lack of education about HRC certification requirements among city departments as a factor in late payments to vendors. She suggested that compliance standards are complicated and the city has a responsibility to help vendors understand the requirements and how to meet them. HRC has the resources to provide businesses with information about their requirements and guidance in how to comply. However, often times HRC may not be aware that a contract is pending as neither the department issuing the contract nor the vendor has informed HRC of the new contract.

In small departments, the person responsible for handling a contract may not even be aware of HRC requirements for contract certification and therefore would not know to put the vendor in contact with the HRC Office. According to Goldstein, this lack of education on both sides of the contract is an obstacle to timely payments<sup>13</sup> In some instances, a department may certify a contract before confirming that a vendor has met HRC requirements. Only after services have been rendered is it discovered that the vendor should not have been certified. In the instance of the Equal Benefits Ordinance, HRC only has authority over a vendor while work is being done for the city. To discover that a vendor was not in compliance after services have been rendered creates a Catch 22. HRC has no legal authority since the work is complete, but the department can also not pay the vendor for the work they completed since the vendor did not comply with HRC requirements.<sup>14</sup>

## CURRENT LAW and/or PRACTICE

There is no general rule in the City's Administrative Code regarding prompt payment to all vendors that do business with the City. However, under the Minority/Women/Local Business Utilization Ordinance (hereafter M/W/LBE Ordinance), the City follows a prompt payment policy for contracts with minority business enterprises (MBEs), women business enterprises (WBEs) and local business enterprises (LBEs). The ordinance states that "it is the City's policy that MBEs, WBEs and LBEs should be paid by the City within 30 days of the date on which the City receives an invoice for work performed for the City." However, the ordinance did not require prompt payment to non-profits or organizations receiving grant money. The ordinance also requires the Controller to work with the Director of the HRC, which administers this program, and representatives of City departments to ensure prompt payment.<sup>15</sup>

Superior Court Judge Warren recently ruled that the M/W/LBE Ordinance violates Proposition 209, the voter-approved state initiative banning preferential treatment based on race or sex. Shortly after this finding, City Attorney Herrera ordered city officials to stop enforcing compliance with the ordinance. Though the M/W/LBE Ordinance is defunct for the time being, it offers a model for amending the Administrative Code to include a prompt payment policy.

The Mayor's Office issued an executive order on March 16, 2004 to implement a new business model for contracting and procurement. The stated purpose of the directive is to "cut unnecessary red tape to ensure that city contracting processes are fair, simple, transparent, and effective."

One of the Mayor's recommendations is to "require departments to change invoice approval processes to comply with the prompt payment provisions of the City's Administrative Code." However, the only prompt payment provision that existed pertained exclusively to M/W/LBE owned businesses. With the M/W/LBE Ordinance's legality under question this provision has no authority. The Mayor's other proposals to streamline

<sup>13</sup> Telephone interview with Cynthia Goldstein, Human Rights Commission, July 13, 2004.

<sup>14</sup> Telephone interview with Cynthia Goldstein, HRC, August 9, 2004.

<sup>15</sup> City of San Francisco Administrative Code, Section 12D.A.1 et seq. (November 1998).

the City's contracting system by creating greater oversight by the Office of Contract Administration, employing "post-audit" processes to test for departmental compliance, developing consistent guidelines and utilizing technology to simplify contract certification may be beneficial to all City contractors.<sup>16</sup>

Certain agencies are separate legal entities that are bound by state and not city law. These include: the school district, the Transportation Authority, the San Francisco Redevelopment Agency, City College, Treasure Island, the Parking Authority and the Housing Authority.

### **OTHER JURISDICTIONS**

By way of comparison, the OLA researched the contracting procedures of Seattle, Los Angeles, New York City, the State of California and the San Francisco International Airport. Each of the cities listed has experienced problems with their contracting and invoicing policies. In reaction to these problems, all three are engaged in efforts to streamline their procurement procedures and policies. Each is at a different phase of restructuring.

Though each municipality has taken a different approach to reforming procurement practices, the OLA has discerned commonalities in these reforms that appear to be effective. While some municipalities have opted to centralize and others have opted to create decentralized systems, all have seen the value in standardizing and simplifying procedures. In addition, each municipality has taken steps to assign responsibility for supporting the contracting process to specific individuals or departments. Please see Appendix B for an analysis of procedures and policies in model municipalities.

Interviews and research suggest that responsibility in the San Francisco procurement process currently is diffuse, leading many in the contracting process to believe that others in the chain of procedure are responsible for late payments. Measures should be taken to clearly delineate who is responsible for ensuring compliance with contracting procedures. This will reduce confusion and the type of situations that result in late payments to vendors.

### **CONCLUSIONS**

This report shows that late payments to non-profit vendors are a symptom of an inefficient and overly complex procurement system. Best practice research shows that other cities have undertaken time intensive and costly projects to revamp their procurement policies focusing on the principles of standardization, centralization and streamlining. Their investment of time and resources reflects their belief that an efficient procurement system is key to the health of a city. Studies conducted by San Francisco task forces and agencies indicate that the city's current system may be in need of similar restructuring in order to maintain integrity in its business relationships and in order to maximize its buying power.<sup>17</sup>

Research suggests that non-profits often are not in compliance with contract requirements and this lack of compliance results in retroactive late payments. Though it is incumbent upon vendors to comply with city contract requirements, these requirements are complicated and often difficult to navigate for a non-profit with

<sup>16</sup> Executive Directive to the Office of Contract Administration and the Director of Administrative Services, Gavin Newsom, Mayor, City and County of San Francisco (March 16, 2004); "Newsom Cuts Red Tape for City Contracts," Press Release, Office of the Mayor, City and County of San Francisco (March 16, 2004).

<sup>17</sup> See "Report to the Board of Supervisor's on Res No. 806-01", City Non-Profit Contracting Task Force, June 23, 2003, [http://www.sfgov.org/site/npccontractingtf\\_page.asp?id=15331](http://www.sfgov.org/site/npccontractingtf_page.asp?id=15331); "Report to Board of Supervisors on Res No. 806-01" City and County of San Francisco Non-Profit Task Force, September 26, 2002, [http://www.sfgov.org/site/npccontractingtf\\_page.asp?id=15331](http://www.sfgov.org/site/npccontractingtf_page.asp?id=15331); "Nonprofit Contracting", Report of the 2000-2001 San Francisco Civil Grand Jury;

limited resources. The lack of standardization among City departments' compounds the difficulty vendors have in understanding and meeting requirements as the requirements may vary between departments.

Procurement systems in model municipalities include tools to assist vendors in meeting city certification requirements. Having specific departments or contacts supporting the contracting process ensures that there is a knowledgeable person available to vendors and relieves departments of the responsibility of training numerous staff members on contracting policies and procedures. Additionally, active monitoring of contracting accounts helps prevent a situation where certification problems are discovered after services or goods have been delivered.

Research and analysis indicate that San Francisco should update its procurement policies and procedures. The simpler and easier the system is to navigate, the easier it will be for both vendors and City agencies to do their jobs in a timely and professional fashion.

### OPTIONS and/or RECOMMENDATIONS

Below is a list of recommendations that the Board should evaluate in addressing current problems with contracting in San Francisco.

- **Prompt Payment Policy:** The Board should consider amending the Administrative Code to include a prompt payment policy applicable to all City contractors. New York City, Los Angeles, Seattle, and the State of California all have official policies stating that vendors should be paid promptly.
- **Interest on Late Payments:** The Board should consider using the New York City and Washington State model of charging interest on late payments or the State of California model of instituting a fine for late payments. For example, if the City paid a vendor late because of funding source problems, then the City would be required to pay interest on money owed. In a situation where a vendor was paid late because they were not in compliance with contract requirements, the City would not pay interest on the late payment.
- **Technical Assistance for Vendors:** The Board should consider implementing a program whereby vendors receive technical assistance to encourage contract compliance. There are examples of this type of assistance that already exist within the City – HRC offers guidance to vendors on how to comply with HRC certification requirements; the Controller's Office is currently drafting a finance guide to help nonprofits comply with City requirements; and the Office of Contract Administration has a page on its Web site entitled "How to do Business with the City and County of San Francisco." Such materials and services are valuable tools for City vendors. The Board should consider centralizing these and other resources helpful in the procurement process and making them easily available in one location on the City's Web site.
- **Technical Assistance for City Departments:** San Francisco's current RFP infrastructure can be expanded to develop a contract liaison program. When departments post RFPs on the OCA web site they include a contact person and generally a contact number and email. The OLA recommends requiring training for departmental RFP contacts to ensure that they are capable of advising potential vendors in all areas of the contracting process. The Controller's Office and the OCA already offer classes for department representatives on the Professional Services Contracting Process and have prepared a binder that outlines the process and includes all the necessary forms.

The Board could also look to New York City and Los Angeles for models. New York City has created the Mayor's Office of Contract Services (MOCS) to monitor the procurement process. MOCS provides technical assistance to vendors to reduce the occurrence of retroactive contracts (see Appendix B).

Los Angeles designates the task of ensuring compliance with city requirements to departmental project managers. These managers in turn assign a department liaison to each contract. This system establishes, both for the vendors and the departments, a point person for each contract and reduces the possibility that either vendors or departments are ignorant of city contracting requirements.

- **Require Vendors to Meet with HRC:** The OLA recommends that vendors be required to meet with HRC as part of the certification process. Most departments include in their RFP a description of certification requirements and either links to the necessary forms or the actual forms themselves. However, feedback from various departments suggests that vendors are not completely comfortable or familiar with these requirements. Requiring vendors to meet with HRC and create a plan for coming into compliance could eliminate one of the main obstacles to timely payments. Adding this requirement may necessitate augmenting HRC's staffing levels.
- **Provide Complete Sets of Forms with RFP:** Some departments include HRC, MWLB, and Living Wage documents with their RFP while some departments post them as separate documents. Other departments do not attach these forms. The OLA recommends that all departments provide a complete set of forms and documents necessary for certification to RFP bidders in a uniform manner. Providing these documents with the RFP ensures that vendors are aware of certification requirements at the earliest point in the contracting process.
- **Centralize Procedures:** The Board may want to consider streamlining procurement through greater centralization. All the models studied suggest that decentralization of procurement procedures is problematic and costly. In September 2002 the San Francisco Civil Grand Jury issued a report on San Francisco's contracting processes. They found that the "City's current system of management is too decentralized, placing costly and unnecessary administrative burdens on nonprofit organizations."<sup>18</sup> On June 26, 2003 the Non-Profit Contracting Task Force issued a report to the Board of Supervisors on plans for improving the City's contracting procedures for non-profit human and health services. Consolidation, streamlining and standardization were themes in almost all of their thirteen recommendations. The OLA recommends that the Board review and adopt, where appropriate, the recommendations of the Non-Profit Contracting Task Force.

Though many argue that centralizing is important, decentralized procedures do have benefits. When a system is decentralized, departments have more flexibility and power to tailor contracts and procedures to their specific needs. A department may be more familiar with the services they require and may be better suited to tailor a contract than a centralized office. Decentralized systems can also eliminate extra layers of review, which can expedite an otherwise cumbersome process.

Additionally, it may not be prudent to centralize in the case of departments like HRC. The goal of this office is to ensure that the City does not discriminate in its own contracting or contract with companies that have discriminatory practices. Placing an office with this type of function under the jurisdiction of an office such as the OCA, whose responsibility is primarily to procure goods, might create a conflict of interest.

<sup>18</sup> "Report to the Board of Supervisor's on Res No. 806-01", City Non-Profit Contracting Task Force, [http://www.sfgov.org/site/npccontractingtf\\_page.asp?id=15331](http://www.sfgov.org/site/npccontractingtf_page.asp?id=15331), p.2.



If the Board is not interested in taking measures to centralize, the Board can also model procurement on Los Angeles or New York City. Though Los Angeles has a decentralized procurement system, each department follows the same steps in obtaining and certifying contracts. New York, under the initiative of Mayor Bloomberg, is revamping their entire procurement system to reduce complexities and redundancies.

- **Consolidate Contracts:** The OLA recommends that the City consolidate contracts across departments where possible. A single non-profit may have contracts with several departments and each department may have different protocol and requirements for contracts. This disparity between departments can be confusing and frustrating to vendors.<sup>19</sup> The process is also inefficient in that vendors may have to provide the same information repeatedly to different departments. Consolidating contracts will also reduce administrative work associated with each contract. The Non-Profit Contracting Task Force offers suggestions on different models for consolidation.

However, vendors should be consulted before attempting to consolidate contracts across departments. In some instances, consolidation may not benefit the City or the vendor as funding comes from a variety of sources with different funding cycles and timelines.<sup>20</sup>

- **Standardize Forms:** Forms are not standardized and may vary from department to department. Some forms may also require that vendors submit the same information repeatedly. The OLA recommends creating a standardized set of forms. Most forms are submitted in hard copy. The OLA also recommends that the Board create an electronic system for submitting forms.<sup>21</sup> Some departments, like HRC, have their forms available online. However, it is not possible to complete and submit these forms from their web site.

Though standardizing forms will be helpful to vendors and department staff, it should be noted that it will be very complicated and difficult to accomplish. DPH is currently undertaking the task of standardizing all the forms in their own department. They receive funding from multiple sources, all of which have different requirements making it difficult to standardize their forms.<sup>22</sup>

- **Process Contract Documents Early:** One of the major obstacles to timely payments is contract certification. The earlier a department detects that a vendor is not in compliance with certification requirements, the faster the vendor can work to come into compliance. Therefore the OLA recommends establishing time frames for vendor document reviews. City Non-Profit Contracting Task Force offers recommendations on how to begin restructuring departments to ensure timely review of documents.<sup>23</sup> Departments should be watchful in ensuring that a contract is not certified before all requirements are met.
- **Improve On-Line Resources:** Currently, the OCA web site is not user friendly and information is not always easy to find. Los Angeles has "vendor payment checklists" for both vendors and department staff. These checklists clearly outline the steps that need to be completed before a vendor can be paid. Such tools reduce confusion by presenting information in a clear and easy to understand fashion.
- **Utilize ADPICs more fully:** ADPICs is the database the OCA and other departments use to store information about vendors. Since many departments cited problems with vendors' insurance as an obstacle

<sup>19</sup> Interview with John Haskell, Controller's Office, July 14, 2004.

<sup>20</sup> Interview with Anne Okubo, August 11, 2004.

<sup>21</sup> "Report to the Board of Supervisor's on Res No. 806-01", pp. 8-9.

<sup>22</sup> Interview with Anne Okubo, August 11, 2004.

<sup>23</sup> *Ibid.*, pp.5-6.

to timely payments, the OLA recommends that departments input information about the insurance expiration dates in ADPICS. The department contact person should be responsible for finding out from vendors when their insurance expires and then inputting this information into the database. This system also could be used to store information on fulfilled HRC requirements eliminating the need for contractors to provide the same information and possibly the same forms to different departments.



## **APPENDIX A**

### **Department of Public Health Procedures**

DPH delegates invoicing responsibilities to various program staff and the department's fiscal unit. Program staff reviews and approves the invoice. Fiscal then files a payment request with the Controller's Office within 3 days. DPH has no overall prompt payment policy. However, each unit (e.g., the AIDS Office, Community Behavioral Health Services, Fiscal, etc.) has its own policy regarding the specific procedures that must be followed when approving invoices.

### **Department of Public Works**

The Department of Public Works (DPW) divides invoicing into two phases. First, project and construction managers must approve invoices. Management considers invoice review to be a top priority. Managers check for the following: 1) correct information (e.g., project title, contract number, DPW order number, etc.); 2) correct billing, in terms of hours and rates; 3) satisfactory completion of work; 4) arithmetic errors; 5) attachment of necessary forms and documentation; and 6) active insurance. Management reports that it usually takes less than 5 business days to verify the above information. If there is a problem with the verification process, contractors are notified right away.<sup>24</sup>

After managers submit approval, invoices are forwarded to Accounting. Accounting processes invoices in the order that they are received (unless there is a problem, in which case invoices are set aside). Invoices are clocked in, entered into a contract invoice log by contractor name, checked for completeness as far as HRC forms are concerned and reviewed for conformance with the contract by designated staff. An accounts payable supervisor gives internal authorization within DPW, and the Controller's Office gives final approval.

It is the informal policy of Accounting to prioritize invoicing, so long as invoices comply with all City regulations. Typically, Accounting processes invoices within 10 working days from the time they are received. In addition, Accounting will sometimes accommodate wire transfers to expedite receipt of payments by contractors.

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<sup>24</sup> Email correspondence with James Chia, Project Manager, Department of Public Works, City and County of San Francisco (April 5, 2004).

## APPENDIX B

### Seattle, WA

The Purchasing Services Division of the Department of Executive Administration is generally responsible for all of Seattle's contracting needs. However, other departments have limited purchasing authority under a Direct Voucher for rents, supplies, materials, equipment and basic services not exceeding \$5,000.<sup>25</sup>

Seattle began streamlining its procurement system in 1998 by launching the Copernicus Project, which aims to leverage the City's buying power to achieve best value in contracts. Best value is defined as the optimal balance between lowest direct costs, lowest indirect costs (such as process efficiencies or increased use of technology), quality, environmental friendliness and social equity benefits.<sup>26</sup>

The Copernicus Project is based on a "commodity driven approach to procurement."<sup>27</sup> Prior to the implementation of the Copernicus Project, Seattle uniformly applied procurement rules to all contracts. Under the new model, Seattle has assembled eighteen "commodity teams" to develop market driven procurement strategies particular to their teams commodity. In 2002, the City reported that the Copernicus approach resulted in savings of \$3,145,000.<sup>28</sup>

Seattle does not appear to have a prompt payment policy per se. However, a standard term and condition of any City contract is that invoices will be paid 30 days after the receipt and acceptance of goods or completion and acceptance of services. The City also accepts early payment discount terms when offered by vendors. Such discounts act as incentives for the City to pay invoices on time.<sup>29</sup>

In addition, all Washington cities are required by state law to pay interest at a rate of 1% per month on amounts due on written contracts for goods, services, personal services, public works, equipment and travel, whenever a municipality fails to make timely payment. Timely payment is defined as payment that meets the terms of a written public contract but that may not exceed 30 days of receipt of a proper invoice.<sup>30</sup>

### New York, NY

The Mayor's Office has general jurisdiction over procurement in New York City. City procurements are partly centralized and partly decentralized, depending on the type of good or service. New York awards contracts for goods, construction and architecture/engineering, human services, information technology, auditing services and other services.<sup>31</sup>

The Procurement Policy Board (PPB), under direction from the Mayor's Office, is the City agency responsible for establishing comprehensive and consistent procurement policies and rules across agencies. The PPB is not involved with actual payment to vendors, but it does monitor and make recommendations to agencies on their process. Agency heads are responsible for following PPB guidelines in order to make timely and appropriate payments.

<sup>25</sup> Direct Voucher Policies & Procedures, Chapter 1.2,

<http://www.cityofseattle.net/purchasing/purchasingservices/dvpan.htm#PURPOSE>.

<sup>26</sup> Copernicus Mission & Objectives, <http://www.cityofseattle.net/purchasing/purchasingservices/docs/CopernicusMission&Obj.DOC>.

<sup>27</sup> Copernicus Benefits, Year 2000 Update, p.2

<sup>28</sup> 2002 Copernicus Benefits, <http://www.cityofseattle.net/purchasing/purchasingservices/docs/02CopBenes.DOC>.

<sup>29</sup> The City of Seattle, Purchase Order/Vendor Contract, Terms and Conditions, <http://www.cityofseattle.net/purchasing/purchasingservices/docs/TermsCond.DOC>.

<sup>30</sup> Revised Code of Washington, Section 39.76.011 (September 1992).

<sup>31</sup> Doing Business with NYC, General Information for Vendors, [http://www.nyc.gov/html/selltonyc/html/new\\_vendors.html](http://www.nyc.gov/html/selltonyc/html/new_vendors.html).

Under the PPB Rules, New York has a prompt payment policy applicable to all contracts. The policy requires the City to pay its bills within 30 days after the receipt of a proper invoice. The City must pay interest on any payments made after the 30-day period, with some exceptions. In addition, the PPB annually publishes a report on prompt payment results.<sup>32</sup>

Mayor Bloomberg made procurement reform a priority when he took office in 2002. The process was fraught with inefficiencies. Several civic groups drafted reports criticizing New York's procurement process noting that the city's "complex process and lengthy cycle time add costs to everything [the City] buy[s], as vendors build a premium into their prices to account for [City's] inevitable delays."<sup>33</sup> The Mayor's reform plan focuses on the following seven areas: charter revision, management reforms, innovative purchasing opportunities, targeted technology investment, accountability for performance, ensuring vendor responsibility, and legislative reform.

One Step Bloomberg's Office took was to restructure the Mayor's Office of Contracts (MOC). In January 2003, Bloomberg consolidated staff from MOC, PPB and the Office of Construction under the direction of the City Chief Procurement Officer (CCPO) into the newly titled Mayor's Office of Contracts Services (MOCS). Merging these offices yielded administrative savings and allowed the city to better monitor the procurement process. MOCS' policy staff works "collaboratively with all of the relevant stakeholders – agencies, vendors, advocates, as well as the Comptroller, the City Council and other partners in government – to identify opportunities for innovation and savings and to identify the regulatory reforms required to achieve such goals."<sup>34</sup>

### Los Angeles, CA

The City of Los Angeles awards contracts in three major areas: construction, goods and services and personal services (e.g., consulting). With respect to personal services, departments award their own contracts, typically based on an RFP or a Request for Qualifications (RFQ) process. The Department of General Services handles all other contracts based on competitive bidding or an RFQ process.<sup>35</sup>

There are distinct steps that must be completed before vendors are paid for personal services, grants and construction contracts. These steps are outlined clearly in checklists and flowcharts available on the Los Angeles Controller's web site.<sup>36</sup>

For each department there is a Project Manager (PM) who typically negotiates, executes and monitors contract terms and conditions. Before awarding the contract, the PM must ensure that the vendor is in compliance with various requirements, such as Living Wage Ordinance or Job Training Policy. Once the PM has determined that all criteria are satisfied he awards the contract, sending a copy to both the vendor and the department's Accounting section. A department liaison is established and contact information is passed onto the vendor.

<sup>32</sup> 2001 Prompt Payment Guidelines, Procurement Policy Board, City of New York, Chapter 1,

<http://www.nyc.gov/html/selltonyc/pdf/2001promptpayguide.pdf>.

<sup>33</sup> "New York City Procurement: A Blue Print for Change", by Marc V. Shaw, Deputy Mayor for Operations and Marla G. Simpson, Director, Mayor's Office of Contracts, October 21, 2003. p.1.

<sup>34</sup> Ibid., p.5.

<sup>35</sup> Ibid, report by Gabriel Cabrera, Attachment II, p. 2.

<sup>36</sup> <http://www.lacity.org/ctr/vendor%20info.htm>

Once an invoice is sent the PM reviews and compares it against the original contract verifying that the conditions of the contract have been met. He then submits the approved invoice to the department's Accounting section.

The Departmental Accounting Section (DAS), once it receives the approved invoice, prepares a Payment Voucher referencing the original encumbrance documents, that it completed upon first receiving the contract. The Payment Voucher and supporting documentation are then sent to the Controller's Office, Demand Audit Division, for approval. The DAS is responsible for tracking the voucher on the FMIS Suspense File and following up with the Demand Audit Division in three days time.

In November of 2001, the Mayor of Los Angeles launched the Timely Payment to City Vendors Initiative to reduce the number of outstanding invoices processed by the City and help train City staff on the proper use of the City's contract management system. Prior to the Initiative, the City owed millions of dollars to local businesses and was forgoing significant sums of money from prompt payment discounts offered by vendors. In 2001, Los Angeles had close to 16,000 outstanding invoices and had received only 50% of discounts. The Initiative required all City departments to pay vendors within thirty days of receipt of an invoice. Unless stated in the specific contract, there is no provision in the initiative to charge interest on late payments. In 2002, the City had reduced its backlog of invoices to fewer than 700 while increasing discounts for prompt payment to 92%. Total savings for that year amounted to over \$3 million dollars.<sup>37</sup>

### State of California

California's procurement system is decentralized, and various State agencies can award contracts. However, the Procurement Division of the Department of General Services plays a strong oversight role. Procurement is responsible for ensuring that departments abide by statutory and regulatory requirements related to public contracts.<sup>38</sup>

In 1999, Governor Wilson signed the California Prompt Payment Act (CPPA). This law requires payment of valid, undisputed invoices within 45 days of receipt by departmental personnel.<sup>39</sup> The CPPA was the State's response to complaints by small business vendors that invoices were not being paid on time. According to the Department of General Services, which conducted an investigation, the greatest cause for payment delay was that departments were not approving and forwarding payment requests to the Controller in a timely fashion.<sup>40</sup>

The CPPA includes penalty provisions for the State's failure to pay invoices within 45 days. The amount of penalties varies depending on whether the vendor is a small business (in which case the rate is higher to ease financial burden). Penalty rates change annually to account for inflation and other economic factors. The Department of General Services maintains records of penalty assessments in order to monitor their effectiveness.<sup>41</sup>

In addition to passing the CPPA, the State has also implemented a support program to assist both departmental staff and contractors in navigating the prompt payment system. The persons responsible for providing such

<sup>37</sup> "Mayor Hahn Celebrates One-Year Anniversary of Timely Payment Program to City Vendors," Press Release, Office of the Mayor, City and County of Los Angeles (December 5, 2002).

<sup>38</sup> Selling to the State of California, <http://www.pd.dgs.ca.gov/sell2state/default.htm>.

<sup>39</sup> California Government Code Section 927, et seq. (1999).

<sup>40</sup> Prompt Payment Tool Kit, Department of General Services, Procurement Division, State of California, <http://www.documents.dgs.ca.gov/pd/delegations/prompt%20payment%20tool%20kit.pdf>.

<sup>41</sup> Ibid.

guidance are state employees known as "Prompt Payment Advocates." Their job is to ensure compliance with the CPPA, on both sides of a transaction, by providing technical assistance.<sup>42</sup>

### **San Francisco International Airport**

The San Francisco International Airport (SFO) processes invoices similarly to City departments. The Airport's accounting unit is responsible for processing payments of invoices. Accounting follows a manual of procedures that is based on general guidelines set and periodically updated by the Controller's Office. All Airport contracts must be properly certified, and funds must be pre-encumbered so that payment is available upon delivery of goods or completion of services. Invoices must adhere to contract terms and meet the approval of project or departmental managers.

The Airport does not have any official prompt payment policy in place. However, SFO is subject to the prompt payment policies included in the City's MBE/WBE/LBE Ordinance and federal Department of Transportation Regulations. In addition, the Airport accounting unit follows an informal policy of processing payments to contractors within 5-7 working days of receiving complete documentation. Also worth noting is that the Airport maintains a \$10,000 revolving fund for the purpose of making emergency payments to vendors for amounts under \$80 and that Airport contracts generally include prompt payment as a term and condition.<sup>43</sup>

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<sup>42</sup> Ibid.

<sup>43</sup> Email correspondence with Sandra Crumpler, Manager, Airport Small Business Affairs Office, San Francisco Airport Commission (April 8, 2004).





**LEGISLATIVE ANALYST REPORT**

(OLA #:027-04)

To: Members of the Board of Supervisors  
From: Adam Van de Water, Office of the Legislative Analyst  
Date: October 25, 2004

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**RE: Banning Smoking in Outdoor City Parks and Recreational Areas**

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**SUMMARY AND SCOPE OF REQUEST**

Supervisor Alioto-Pier requested the Office of the Legislative Analyst (OLA) review and summarize no-smoking laws in Los Angeles, Santa Monica, and Beverly Hills looking specifically at implementation, enforcement, and effectiveness of each ban. Supervisor Alioto-Pier also requested the OLA make policy recommendations related to the proposed ban here in San Francisco.

**EXECUTIVE SUMMARY**

State law currently prohibits smoking or disposing of any tobacco-related products within 25 feet of a playground or tot lot sandbox area. Violations are infractions punishable by a fine of \$250. In the last five years the cities of Beverly Hills, Carson, Davis, El Monte, Huntington Beach, Los Angeles, Malibu, Pasadena, Redondo Beach, San Fernando, and Santa Monica have all enacted additional restrictions on outdoor smoking.

The cities of Beverly Hills, Carson, El Monte, Huntington Beach, Pasadena, San Fernando, and Santa Monica go the furthest, covering all park areas in their entirety "from curb to curb" and establishing infractions of \$100 to \$250 per violation. The cities of Los Angeles and Davis prohibit smoking in designated areas of parks, including playgrounds, athletic fields, picnic areas, and gardens.

All cities surveyed rely on voluntary compliance and public education outreach efforts. Other than required new signage, no cities have experienced significant increased costs for enforcement or implementation and all cite cooperation with the new policies if a general lack of awareness.

The OLA was unable to find any reliable studies of the impacts of these recent smoking bans in city parks but anecdotal evidence from parks managers and nonprofit organizations suggests that they have reduced smoking and second-hand smoke in public parks and have decreased smoking-related litter.

Approval of Supervisor Alioto-Pier's proposed "curb to curb" prohibition of smoking in City parks, plazas, piers, gardens, and recreational fields would make San Francisco the first county in the state to do so.



### SAN FRANCISCO'S PROPOSED POLICY

State law currently prohibits smoking in most enclosed public spaces or places of employment<sup>1</sup> and provides a \$250 fine for smoking or disposing of any tobacco-related products within 25 feet of a playground or tot lot sandbox area.

The San Francisco Health Code currently prohibits smoking in certain buildings and enclosed structures including bars, restaurants, sports stadia, child care facilities, places of governmental assembly, polling places, health and educational facilities, business and nonprofit organizations, theatres, aquariums, libraries, museums, and convention halls<sup>2</sup>.

Sup. Alioto-Pier's proposed legislation would further prohibit smoking,  
*on any unenclosed area of property in the City and County of San Francisco that is open to the public and under the jurisdiction of the Recreation and Park Commission or any other City department if the property is a park, square, garden, sport or playing field, pier, or other property used for recreational purposes.*

This would include the entire outdoor section of Golden Gate Park, all piers used for recreational use under Port control, all City-owned plazas and squares such as Union Square, and public golf courses such as Harding Park. The proposed law would not apply to private property, San Francisco Unified School District grounds, or to public areas outside the jurisdiction of the City such as the Presidio and Ocean Beach. As such, the proposed outdoor smoking policy would be the first for a California county and among the most comprehensive in the state.

The proposal calls for violations to be treated as infractions punishable by a fine of \$100 for the first violation, \$200 for the second violation within a year, and \$500 for the third violation in a year. Only peace officers – uniformed police and sheriff – may issue citations.

### OTHER JURISDICTIONS

At least eleven other California cities and one county have enacted outdoor smoking restrictions that exceed state law. These include the City of Davis, Los Angeles County, and ten cities in the Los Angeles region – Beverly Hills, Carson, El Monte, Huntington Beach, Los Angeles, Malibu, Pasadena, Redondo Beach, San Fernando, and Santa Monica<sup>3</sup>.

All city laws rely on public education, signage, and voluntary compliance while providing citation authority to peace officers and, in some cases, park rangers and environmental health officers. These municipalities report success with this method and have issued citations only on rare occasions of repeat offense or refusal to comply.

<sup>1</sup> California's Law for a Smoke Free Workplace (Labor Code 6404.5)

<sup>2</sup> See Article 19F for definitions and exceptions.

<sup>3</sup> Los Angeles County and the cities of Malibu and Redondo Beach specifically address public beaches and are not discussed in more detail below as public beaches in San Francisco are the jurisdiction of the Golden Gate National Recreation Area.

Cities such as Beverly Hills, Carson, El Monte, Huntington Beach, Pasadena, San Fernando, and Santa Monica have all banned smoking in city parks from “curb-to-curb.” Interestingly, larger cities such as Los Angeles and Davis, have limited smoking prohibitions to designated areas within public parks such as picnic areas, gardens, playgrounds, and recreational facilities.

The OLA could not find any reliable studies of the measurable impact of these laws but anecdotal evidence from nonprofit organizations and public works, parks and health department staff suggests that they have reduced both smoking and smoking-related litter in public parks. However, due to a general lack of awareness of the new policies, parks and public works officials report that cigarette litter, while reduced, is still prevalent.

The details of each city’s policy are summarized in Table I and further outlined in Appendix A below.

**Table I: Outdoor Smoking Restrictions in Other California Jurisdictions**

	<b>Prohibited Act</b>	<b>Parks Affected</b>	<b>Penalty</b>
<b>State of CA</b>	Smoking or disposal of cigarette, cigar, or other tobacco-related product	W/in 25’ of a playground or tot lot on private and public school grounds and city, county, or state park grounds	\$250 Infraction
<b>San Francisco (Proposed)</b>	Smoking tobacco or any other weed or plant.	In all city public parks, curb to curb and any City park, square, garden, sport or playing field, pier, or other recreational property	\$100 Infraction <i>(\$200 and \$500 for subsequent violations w/in 1 yr)</i>
<b>Los Angeles</b>	Smoking any tobacco products including pipes, cigarettes, and cigars	W/in 25’ of playgrounds, bleachers, backstops, sports fields and courts, and picnic areas	Infraction, court-determined fine
<b>Pasadena</b>	Burn, chew, or dispose of cigar, cigarette or tobacco-related product	In all city public parks, curb to curb and in or upon playgrounds and recreation centers	\$100 Infraction <i>(\$200 and \$500 for subsequent violations w/in 1 yr)</i>
<b>Beverly Hills</b>	Smoking	In all city public parks, curb to curb	Infraction, court-determined fine
<b>Santa Monica</b>	Smoking or disposal of any cigarette, cigar or tobacco	In all city public parks, curb-to-curb	\$250 Infraction
<b>Davis</b>	Smoking any cigar, cigarette, pipe, weed, plant, or combustible substance	Public events, public gardens, children’s play areas, and where food and drink are offered for sale.	\$50 Infraction <i>(\$200 and \$500 for subsequent violations w/in 1 yr)</i>

### CONCLUSION

It is currently illegal to smoke in bars, restaurants, and most enclosed public meeting places in California. Supervisor Alioto-Pier has proposed extending this restriction to all City parks and all City plazas, piers, gardens, and recreational fields. If approved, San Francisco would be the first county in California to prohibit smoking in all parks from "curb to curb."

Approval of the proposed ordinance is a policy matter for the Board.

## APPENDIX A: OUTDOOR SMOKING RESTRICTIONS IN OTHER CA JURISDICTIONS

### **State of CA**

On August 6, 2001, Governor Davis signed AB188 prohibiting the smoking or disposal of any "cigarette, cigar, or other tobacco-related product" within a playground or tot lot sandbox area and establishing a \$100 fine for any violation<sup>4</sup>. The law became effective January 1, 2002 and applies statewide to all playground and tot lots "located on public or private school grounds, or on city, county or state park grounds."

On September 15, 2002 the State raised the fine to \$250 and expanded the scope of the bill to include any area within 25 feet of a playground or tot lot sandbox area.

### **Los Angeles**

On August 2, 2002, the City of Los Angeles added Section 41.50 to the Los Angeles Municipal Code prohibiting smoking,

*Within 25 feet of areas where playground equipment has been installed for public use by children, play pits, play structures, bleachers, backstops, sports fields, ball diamonds, basketball, handball, tennis and paddle tennis courts, and areas posted to require permits to be reserved for picnics.*

The policy is primarily self-enforcing though park rangers have the authority to issue infractions. According to Acting Chief of the Park Ranger Division Albert Torres, the policy is "working very well" and "gives rangers and police officers probable cause to approach violators."

### **Pasadena**

On February 5, 2004, the Pasadena City Council approved the City's Tobacco Use Prevention Ordinance<sup>5</sup> making it,

*unlawful for any person to possess a burning tobacco or tobacco-related product, including but not limited to cigars and cigarettes, to chew tobacco or tobacco-related products, to dispose of lighted or unlighted cigars or cigarettes or cigarette butts, or any other tobacco-related waste, in or upon any dedicated city park, playground, or recreation center.*

The Public Health Department has responsibility for enforcement of the measure, which is an entirely complaint-driven process. Environmental Health Officers may issue citations for infractions which carry fines of \$100 for the first offense, \$200 for the second offense within one year, and \$500 for each additional offense within one year. However, according to Tobacco Control Section Coordinator Statice Wilmore, the Public Health Department has only had 2 call-in violations since the ordinance was passed. In both cases, the violator had left the scene and no citation was issued.

The City conducted an initial public education campaign, including a press release to newspapers, production of an education flyer, and outreach to all 21 city-owned parks. As a result, according to Ms. Wilmore, people no longer smoke in parks (choosing instead adjoining

<sup>4</sup> Adding Section 104495 to the CA Health and Safety Code.

<sup>5</sup> Section 8.78.051

areas or sidewalks where it is still permitted) and the Department of Public Works has noticed a decrease in the number of cigarette butts.

### **Santa Monica**

In April 2003, the Santa Monica City Council added section 4.44.040 to the Municipal Code prohibiting smoking or disposing "any cigarette, cigar or tobacco, or any part of a cigarette or cigar, within the boundaries of any public park." Any violation was deemed an infraction punishable by a fine of \$250.

Santa Monica's ordinance applies to the entire boundaries of public city parks and has come to be referred to as a "curb-to-curb" prohibition. According to a February staff report from the Community and Cultural Services Department (CCSD), the cities of Beverly Hills, Carson, San Fernando, Huntington Beach and El Monte had also extended the smoke free policy to include entire parks (curb-to-curb).

According to Elaine Polachek in the Santa Monica Open Space Management Division of the CCSD, enforcement of the measure has relied on voluntary compliance as a result of increased signage, a public education outreach campaign, and reminders from park rangers. The City has not increased enforcement, does not issue tickets for violations (except in the rare case of a refusal to comply), and has not measured the impacts on smoking or littering in the parks since the ordinance passed last year.

### **Davis**

The City of Davis does not have an explicit smoking ban in public parks but does have an extensive smoking control policy. Chapter 34.02.010 of the Davis Municipal Code prevents smoking in most enclosed public spaces as well as designated locations outdoors including:

- at "public events including but not limited to sports events, entertainment, speaking performances, ceremonies, pageants and fairs",
- in "any place where food and/or drink is offered for sale," and
- in "children's play areas," and "public gardens."

Violations of the smoking control policy are infractions punishable by a fine of \$50. Second and third violations within one year are also infractions punishable by fines of \$200 and \$500 respectively.

### **Beverly Hills**

In the summer of 1999, the Beverly Hills City Council enacted a three-month trial smoking ban in public parks. After positive reports from staff, in August 1999 the City Council gave approval to the Director of Recreation and Parks to create a policy banning smoking curb-to-curb and permanent signs were erected.

Like Santa Monica, the ban relies on voluntary compliance, though park rangers do have limited citation authority. If a warning is ineffective, rangers can collect "field interview cards" to register violators' names and addresses with the police department, and, in rare cases of chronic

abuse, can issue citations. In the five years since the policy was initiated, the City has only issued one (1) such citation.

According to Patricia Agnitch of the Beverly Hills Recreation and Parks Department, while there have been no studies of the impact of the policy on the parks, "it has certainly led to cleaner parks and a healthier environment." Supervising Park Ranger Steven Clark agrees though he notes that cigarette butts are still prevalent in some picnic areas, most likely due to lack of awareness of the no smoking policy. This is likely due to minimal signage and enforcement together with a large number of tourists accustomed to smoking outdoors.







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**LEGISLATIVE ANALYST REPORT**

TO: Honorable Members of the Board of Supervisors  
FROM: Office of the Legislative Analyst (OLA), on behalf of the Board  
DATE: October 28, 2004  
SUBJECT: Interim Ordinance on Demolitions of Single and Dual Screen Movie Theaters

**INTRODUCTION**

On October 14, 2004, the Mayor and Board of Supervisors adopted a 45-day emergency interim ordinance (moratorium) on demolitions of single and dual screen movie theaters. Section 65858 of the California Government Code requires that an interim ordinance be adopted by urgency measure. This section also requires that 10 days prior to the expiration of an interim ordinance or any extension, the legislative body (in this case the Board of Supervisors) must issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance. The following report is intended to comply with this section.

**EXECUTIVE SUMMARY**

The Board of Supervisors is currently working to alleviate the condition that led to the adoption of the interim ordinance. On July 27, 2004, Supervisor Peskin introduced an ordinance (File No. 041070) that would require Conditional Use ("CU") authorization for any project involving the change in use or demolition of a movie theater. Existing law required the Board to forward the proposed ordinance to the Planning Commission for review and comment. On October 21, 2004, after a public hearing, the Commission recommended that the Board adopt the ordinance. Following the Planning Commission's recommendation, the Board of Supervisor's Land Use Committee held a public hearing, on October 25, 2004, to review the proposed ordinance. After this hearing, the Land Use Committee recommended that the full Board adopt the proposed ordinance with some minor amendments described herein. Board passage of this legislation will determine whether enough progress has been made to eliminate the interim ordinance.

**45-DAY INTERIM ORDINANCE**

The interim ordinance, adopted by the Mayor and Board of Supervisors on October 14, 2004, contains the following findings:

#### General findings:

- San Francisco has a proud tradition of neighborhoods and commercial districts that reflect the diverse character of the City.
- Movie theaters serve as important anchors in many of these neighborhoods and commercial districts, helping to generate pedestrian traffic critical for the economic vitality of surrounding retail stores, restaurants and other small businesses.
- Movie theaters, particularly single and dual screen theaters, contribute to the unique character of these neighborhoods and commercial districts and enhance the quality of life of the City's residents.
- Over the last 25 years, San Francisco has lost more than 35 movie theaters.
- Many of the remaining movie theaters are threatened with potential closures, demolitions or conversions in the near future. The Attachment to this report, created by the OLA, contains a list of theaters that are currently threatened.

#### Findings related to imposition of the interim ordinance:

- The interim zoning controls described in Planning Code Section 306.7 were intended and designed to deal with and ameliorate the problems and conditions associated with the loss of single and dual screen movie theaters in neighborhood and commercial districts by imposing a temporary moratorium on demolition of such theaters.
- The public interest will be best served by imposition of these controls at this time in order to ensure that the legislative scheme that may be ultimately adopted is not undermined during the planning and legislative process for permanent controls.

#### Planning Code Section 101.1 findings:

- The interim ordinance advances and is consistent with Priority Policies 1, 2 and 5 of Planning Code Section 101.1 in so far as they attempt to conserve a diverse economic base and existing neighborhood-serving retail and neighborhood character.
- This ordinance also supports Priority Policy 7 to the extent that it preserves single and dual screen movie theaters that are historic landmarks or historic buildings.
- At this time the ordinance does not effect, and thus will not conflict with, Priority Policies 3, 4, 6 and 8.

#### Environmental findings:

- The Planning Department determined that the interim ordinance is in compliance with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.).

If application of the interim ordinance would have the effect of denying approvals for a project with a significant component of multi-family housing, then that project would be excluded from the reach of the ordinance.

The 45-day interim ordinance began October 14, 2004 (the date that the Mayor signed the legislation) and will expire on November 27, 2004.

## **CONDITIONAL USE AUTHORIZATION**

The proposed ordinance, introduced by Supervisor Peskin on July 27, 2004, would require Conditional Use ("CU") authorization for any project involving the change in use or demolition of a movie theater. Specifically, this legislation would make the following changes to the Planning Code as well as certain findings:

- Add Section 221.1 and amend Sections 703.2, 803.2 and 803.3 to require CU authorization for any project involving the change in use or demolition of a movie theater;
- Amend Section 303 to require specific findings as part of a CU authorization for a change in use or demolition of a movie theater (see below).
- Require findings of consistency with the City's General Plan and Priority Policies of Planning Code Section 101.1; and
- Require environmental findings.

The ordinance would exempt projects for which the City received environmental evaluation applications on or before July 27, 2004 (the date this legislation was introduced).

The ordinance would urge the Planning Department, prior to any Planning Commission action that is subject to this legislation, to consult with other affected City departments, including, but not limited to, the Mayor's Office of Economic Development, Mayor's Office of Neighborhood Services, the Small Business Commission and the Film Commission.

In addition to the standard Section 303 findings that need to be made by the Planning Commission for any CU authorization, the ordinance would require the Commission to make the following three additional "specific findings" regarding movie theaters:

- (A) Preservation of a movie theater is no longer economically viable and cannot effect a reasonable economic return to the property owner.
- (B) The change in use or demolition of the movie theater use will not undermine the economic diversity and vitality of the surrounding neighborhood commercial district.
- (C) The resulting project will preserve the architectural integrity of important historic features of the movie theater use affected.

The ordinance was referred to the Planning Department and Commission for review and comment. On September 14, 2004, the Planning Department determined that the ordinance was exempt from the California Environmental Quality Act (CEQA) pursuant to General Rule Exclusion under CEQA Guidelines Section 15061(b)(3). On October 21, 2004, after a public hearing, the Planning Commission adopted a resolution recommending that the Board adopt the proposed Planning Code amendments. The Commission also found that these amendments were consistent with the City's General Plan and the eight Priority Policies established by Planning Code Section 101.1.

It is important to note that the Planning Commission commented on the aesthetic and economic value of the City's movie theaters:

"Many of the San Francisco movie theaters are contained in older buildings that have a distinctive design or characteristics that are familiar to and an integral part of existing neighborhood development patterns."

"Movie theaters can serve as important commercial focal points in many neighborhoods by helping to generate pedestrian traffic critical for the economic vitality of surrounding stores, restaurants and other small businesses."

Following the Planning Commission's recommendation, the Board of Supervisor's Land Use Committee held a public hearing, on October 25, 2004, to review the proposed ordinance. After this hearing, the Land Use Committee amended the proposed ordinance, as follows, and recommended that the full Board adopt it as amended. Specifically, the Land Use Committee, at the suggestion of the Planning Department, added language to assist the Planning Commission to interpret the phrase "reasonable economic return", terminology in Finding (A) above. This amendment would direct the Commission to use the criteria set forth in Planning Code Section 228.4, which concerns "fair return on investment" when converting gasoline service stations, to guide its decision-making. The Land Use Committee also amended the legislation to exempt those projects for which the City received an environmental evaluation application (as opposed to a site permit application) on or before July 27, 2004.

## CONCLUSION

As noted above, the Board of Supervisors is currently working to alleviate the condition that led to adoption of the interim ordinance. Specifically, the Board introduced legislation to require CU authorization for any project involving the change in use or demolition of a movie theater. The Planning Commission, on October 21, 2004, recommended that the Board adopt the proposed ordinance. The Board's Land Use Committee, on October 25, 2004, took a similar action. Board passage of this legislation will determine whether enough progress has been made to eliminate the interim ordinance.

## **MOVIE THEATERS AFFECTED BY 45-DAY MORATORIUM BY NEIGHBORHOOD**

### **Downtown / Tenderloin**

Larkin Theater – 816 Larkin (Single-screen) (Open)  
 Royal Theater Screening Room – 220 Jones (Single-screen) (Open)  
 Market Street Cinema – 1077 Market (Single-screen) (Open)  
 Regal World Theater – 1046 Market (Single-screen) (Open)

### **North Beach / Chinatown / Russian Hill**

Alhambra Theater – 2330 Polk (Single-screen) (Closed) (Gorilla Sports Gym)  
 Pagoda Theater – 1741 Powell (Single-screen) (Closed)

### **Western Addition**

Harding Theater – 616 Divisadero (Single-screen) (Closed)

### **Marina / Pacific Heights**

Metro Theater – 2055 Union (Single-screen) (Open)  
 Clay Theater – 2261 Fillmore (Single-screen) (Open)  
 Vogue Theater – 3290 Sacramento (Single-screen) (Open)  
 Cinema 21 – 2141 Chestnut (Single-screen) (Closed)  
 Presidio Theater – 2340 Chestnut (Single-screen) (Closed)

### **Richmond District**

Bridge Theater – 3010 Geary (Single-screen) (Open)  
 4-Star – 2200 Clement (Duplex) (Open)  
 Balboa Theater – 3630 Balboa (Duplex) (Open)  
 Coronet Theater – 3575 Geary (Single-screen) (Closed) (Future Senior Care Facility)

### **Haight / Inner Sunset**

Red Vic Movie House – 1727 Haight (Single-screen) (Open)  
 Midtown Theater – 562 Haight Street (Single-screen) (Closed)

### **Sunset / West Portal**

Surf Theater – 4520 Irving Street (Single-screen) (Closed)

### **Mission / Bernal Heights**

Roxie Theater – 3117 16<sup>th</sup> (Single-screen) (Open)  
 Victoria Theater – 2961 16<sup>th</sup> (Single-screen) (Open)  
 Tower Theater – 2465 Mission (Single-screen) (Closed) (Church)  
 Grand Theater – 2665 Mission (Single-screen) (Closed) (Chinese import store)  
 Roosevelt / York Theater – 2789 24<sup>th</sup> (Single-screen) (Closed) (Brava Women's Theater Arts)  
 Del Mar Theater – 5825 Mission (Single-screen) (Closed) (San Francisco Revival Center)  
 New Mission Theater – 2550 Mission (Single-screen) (Closed)  
 Wigwam / Crown / Cine Latino Theater – 2555 Mission (Single-screen) (Closed)



**Castro**

Castro Theater – 420 Castro Street (Single-screen) (Open)

**Outer Mission / Excelsior / Ingleside**

El Rey Theater – 1970 Ocean (Single-screen) (Closed) (Church)

Amazon / Apollo Theater – 965 Geneva (Single-screen) (Closed)

**Bayview**

Avenue Theater – 2650 San Bruno (Single-screen) (Closed)



(OLA #: 032-04)

## LEGISLATIVE ANALYST REPORT

**To:** Members of the Board of Supervisors  
**From:** Andrew Murray, Office of the Legislative Analyst  
**Date:** December 1, 2004

**RE:** **Local Government Programs for Siting Automatic External Defibrillators (AEDs) in Public Spaces (File No. 041403)**

### SUMMARY OF REQUEST

Supervisor Daly sponsored a motion requesting that the Office of the Legislative Analyst (OLA) examine the City's current policy on siting defibrillators in public buildings and analyze what other cities have done on this topic.

### EXECUTIVE SUMMARY

Improvements in the ease of use and the falling cost of automatic external defibrillators (AEDs) have made their placement in emergency response vehicles widespread throughout San Francisco and other communities. In addition, because emergency responders often cannot reach cardiac arrest victims in sufficient time to provide aid, AEDs are being purchased by businesses and other organizations and placed in publicly accessible locations so that non-medical personnel can use them to attend to people who experience cardiac arrest at these locations. Programs to site AEDs in public places are called public access defibrillation (PAD) programs and are becoming increasingly widespread. As most PAD programs are relatively new, little long-term research on their cost-effectiveness has been conducted.

A number of communities in California and beyond have piloted programs to place AEDs in public buildings and are incrementally expanding their programs, but few have already implemented programs that provide broad coverage. The City of Los Angeles and San Diego County are exceptions, having placed over 500 AEDs each in public buildings. Some City and County of San Francisco department heads and facility managers have taken individual initiative to purchase and install AEDs in their buildings, but the City as of yet has no formal policy directing agencies to site AEDs in City-owned buildings. The fire department drafted a proposed policy, in response to a request from then Supervisor Newsom in 2000, which has not been implemented. The City is therefore in a position to consider adopting a program siting AEDs in public buildings and expanding its other AED programs.

DOCUMENTS DEPT.

DEC - 6 2004

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## BACKGROUND, CURRENT LAW

Heart disease is currently the leading cause of mortality in the United States, and results in more than 1,500 deaths in San Francisco each year (average 1998-2000)<sup>1</sup>. Most of these deaths occur from a syndrome called sudden cardiac arrest, which strikes twice per day in San Francisco<sup>2</sup>, and is usually caused by a disturbance in the heart rhythm called ventricular fibrillation. The only procedure to successfully treat ventricular fibrillation is applying an electric shock to the chest, called defibrillation.<sup>3</sup> For every minute that a person remains in ventricular fibrillation and defibrillation is not provided, the chances of resuscitation drop by almost 10 percent, until after 10 minutes, the chance of resuscitating a victim of cardiac arrest is near zero.<sup>4</sup>

In the mid-1980s, a new generation of defibrillators, called automated external defibrillators (AED), was introduced that was capable of interpreting a person's heart rhythm and automatically delivering a defibrillation shock when appropriate. People with basic medical training could safely use these. By the early-1990's it had become common for fire engines and ambulances (including basic life support ambulances not staffed by paramedics) to be equipped with AEDs, and more recently police patrol cars are being equipped. As a result, the survival rate of out-of-hospital cardiac arrest victims improved dramatically. However, fire engines, ambulances, and patrol cars often cannot reach cardiac arrest victims within ten minutes.

The ease of use of AEDs, the need for fast response, and the steadily decreasing price (now approximately \$3,000, installed, with annual upkeep costs of \$100)<sup>5</sup>, led to the concepts of early access defibrillation and public access defibrillation (PAD). Early access (or emergency employee) defibrillation and PAD attempt to reduce the time before defibrillation can be administered to a cardiac arrest victim by locating AEDs throughout communities and increasing the number of users by providing training to non-medical personnel. In early access defibrillation programs, specific non-medical personnel are trained in operating AEDs and are the only people authorized by the owner of the AED to use the device in responding to cardiac arrest emergencies. PAD is a situation in which the owner of an AED places it in a publicly accessible location and authorizes its use by any lay community member (not just designated individuals) who is in a position to respond to a cardiac arrest emergency. Appendix A contains a list of publicly accessible locations identified by researchers as being of high cardiac arrest incidence. The American Heart Association estimates that widespread availability and use of AEDs could save 50,000 lives in the U.S. each year.<sup>6</sup>

<sup>1</sup> San Francisco Department of Public Health, 2002 Overview of Health Status: Who We Are, How We Live, Our Health

<sup>2</sup> San Francisco Fire Department, per conversation 11/16/04 with Medical Director Marshal Isaacs.

<sup>3</sup> [www.emedicinehealth.com](http://www.emedicinehealth.com), National Center for Early Defibrillation

<sup>4</sup> [www.emedicinehealth.com](http://www.emedicinehealth.com), National Center for Early Defibrillation

<sup>5</sup> Per conversation 11/12/2004 with Robert Cavaglieri of the City of Beverly Hills Fire Department, corroborated by other sources, including SFFD Medical Director Marshal Isaacs. Includes AED, medical cabinet, signage, and supplies, not training.

<sup>6</sup> American Heart Association

An increasing number of government agencies have acted to expand the prevalence and use of AEDs by adopting the following practices and programs:

- Public education to promote awareness;
- Training to volunteers in operating AEDs;
- Information to buyers on AED devices and vendors;
- Requiring registration of AEDs with the local emergency medical services department;
- Requiring registration of physicians who prescribe AEDs with the local emergency medical services department;
- PAD program management guidelines;
- Siting AEDs in publicly-owned buildings; and
- Requiring or requesting AEDs in publicly leased buildings.

Most government programs addressing PAD are relatively new, and little long-term research has been conducted on the value and cost effectiveness of the programs. Recent studies have shown that the use of AEDs by trained volunteers nearly doubled the survival rate of cardiac arrest victims in community settings when measured against the survival of people who only received CPR.<sup>7</sup> However, some researchers have also concluded that PAD is excessively expensive in terms of the number of quality-adjusted life years gained.<sup>8</sup> More thorough research findings should soon be forthcoming as more local government programs are implemented, many of which have a reporting requirement regarding incidence of public AED use.

### Federal and state law relating to PAD

The federal government has passed a number of laws that address AEDs. Among other things, these laws govern liability, regulate their manufacture, require federal buildings to site AEDs, require commercial airlines to site AEDs, and provide limited funding to urban and rural communities to purchase AEDs and train non-medical personnel in their use.<sup>9</sup> A more thorough discussion of federal policies regarding PAD programs and liability issues can be found in Appendix B.

Between 1997 and 2001, all fifty states adopted regulations addressing PAD programs. According to the American Heart Association<sup>10</sup>, California state law<sup>11</sup> provides Good Samaritan protection from civil damages liability to any person who renders emergency care in good faith using an AED, whether or not they have received certified CPR and AED training. California law also protects from liability any person or entity that owns an AED provided that the person or

<sup>7</sup> Medical College of Wisconsin study primarily funded by the National Institutes of Health Heart, Lung and Blood Institute and the American Heart Association.

<sup>8</sup> <http://www.heartcenteronline.com/myheartdr/home/research-detail.cfm?reutersid=4007>

<sup>9</sup> National Center for Early Defibrillation

<sup>10</sup> American Heart Association, AED Legislation Update (Good Samaritan)

<sup>11</sup> California Health and Safety Code Sections 1797.5, 1797.107, 1797.190

and 1797.196, California Code of Regulations Title 22, Division 9, Chapter 1.8 Sections 100031 through 100043, SB 911 (1999), and AB 2041 (2002)

entity has complied with provisions of the Health and Safety Code<sup>12,13</sup>. An overview of legal issues relating to PAD programs can be found in Appendix C, an American Heart Association factsheet.

### **CURRENT SAN FRANCISCO AED PROGRAMS**

The City and County of San Francisco currently has a number of programs involving AEDs. All of the City's fire engines and ambulances are currently equipped with AEDs, as the result of an effort started in 1987. The San Francisco Police Department is currently engaging in a pilot project to equip patrol cars with AEDs, as police officers are often the first responders on the scene of medical emergencies. MUNI will kick off an effort in late 2004 to install AEDs at each of their major maintenance facilities as well as site an AED at the Powell Street Station, an initiative undertaken jointly with the fire department.

The San Francisco Department of Public Health, Emergency Medical Services (EMS) section oversees a program to promote and regulate the placement of public AEDs. The department regulates AEDs by requiring that any doctor that wishes to prescribe an AED must be registered with EMS and specifies user training and equipment maintenance requirements. The department also promotes the placement of AEDs by providing a list of physicians who are registered to prescribe them, a list of equipment vendors, and a list of individuals and organizations qualified to train volunteer AED users. The registry of that program indicates that there are currently 108 organizations/facilities throughout the city that have AEDs, of which 15 are public organizations/facilities (see Appendix D for a complete list). The placement of AEDs in City-owned buildings is a result of individual initiative on the part of department heads and facility managers at the City, not the result of a particular central policy promoting placement. The fire department drafted a proposed policy, in response to a request from Supervisor Newsom in 2000, but that has not been implemented.

### **PROGRAMS IN OTHER JURISDICTIONS**

In an effort to determine the standard and best practices of local government PAD programs, the OLA communicated with local and regional experts and collected information on leading programs. These programs include the cities of Anaheim, Los Angeles, Oakland, Seattle, and Sunnyvale, the counties of Contra Costa and San Diego, the California Department of General Services, the federal General Services Administration, and San Jose International Airport. The OLA's findings are summarized below.

The City and County of San Francisco's program to promote placement of AEDs by public and private organizations by providing guidance and support services, but no funding for the purchase of AEDs, is an approach emulated by other jurisdictions. San Francisco's program was the first of its kind in the state, and now 5 other jurisdictions, including Contra Costa and San

<sup>12</sup> Health and Safety Code Section 1797.196 (b) and Title 22, California Code of Regulations, Division 9, Chapter 1.8

<sup>13</sup> American Heart Association, AED Legislation Update (Good Samaritan)

Diego counties, have similar programs. Some of these programs are funded on a fee for service basis.

A number of communities have pilot or small-scale programs to place AEDs in public buildings, including Oakland and San Jose. Apart from formal pilot programs, many jurisdictions have sited AEDs on an ad hoc basis at a limited number of public buildings as the result of individual initiative on the part of department heads and facility managers absent directives from local policy makers.

A small number of jurisdictions have large-scale programs. These include the federal government, the State of California, and the cities of Los Angeles, San Diego, and Seattle. The federal government is requiring that all federal facilities site AEDs, and the State of California will soon likely issue a management memorandum directing all department heads to site AEDs in their buildings. In addition, the State is considering requiring that state leased buildings also be equipped with AEDs. Los Angeles has sited over 600 AEDs at public facilities such as the airport, city office buildings, community centers, convention center, golf courses, harbor, parks, swimming pools, and zoo. Seattle has sited more than 700 devices at similar locations. The State of New York requires that all public schools with 1,000 or more students have AEDs, which is the only requirement of this kind in the country. See Appendix E for additional information on the number of public AEDs, locations, and funding sources employed by other jurisdictions. Government policies to establish PAD programs can take many forms, including directives by executives like fire chiefs, city managers, department heads, and mayors and acts of city councils and other elected bodies (see Appendix F, the City of Los Angeles motion).

The sources of funding of public PAD programs are diverse. Some pilot projects have been supported by seed grants from the federal government or donations of equipment from vendors. Others have been funded by donations, such as those to fire department related charities which in turn are used to purchase AEDs. Some jurisdictions have solicited donations from charitable organizations such as the Rotary Club to place AEDs in locations like schools and senior centers. In Contra Costa County, funds from a local measure for paramedic enhancement (Measure H) were used to purchase AEDs. In some cases firefighters or paramedics provide training on time they have volunteered. Few jurisdictions have large pools of resources that can be devoted to PAD programs, which partially explains why there are few programs that thoroughly place AEDs in public buildings. Seattle and the State of California both require that departments budget for them. The City of Los Angeles' initial 600+ AEDs were acquired using general fund, but a new motion that is being considered and would require all of the City of Los Angeles' public buildings to have AEDs directs departments to find sources of funding other than the general fund.

Not a single case could be uncovered of a jurisdiction requiring that private organizations provide AEDs in places where large numbers of people pass or assemble, with the exception of the FAA requiring such of commercial airlines. Although no private companies are required to site devices, many companies that operate large facilities have implemented programs of their own accord. As such, some communities have determined that they do not need many AEDs in public buildings, because most of their large places of assembly are private, and already served



by a public AED. One example is the City of Vallejo, whose largest places of assembly include Marine World and the ferry building, both of which are operated by companies that have sited AEDs.

### CONCLUSION

The low cost and obvious benefits of AEDs have encouraged many local government agencies and other organizations to site them in their buildings on a pilot or more widespread basis, despite uncertainty regarding their cost effectiveness and liability issues. San Francisco already has a number of programs in place involving PAD and AEDs. The City is therefore in a position to consider the following additional actions, beyond maintaining its current programs:

- Broader placement of AEDs in City buildings;
- Additional effort to encourage the siting of AEDs by private organizations, particularly those with large facilities or with large places of assembly;
- Requiring or encouraging the placement of AEDs in City-leased buildings;
- Wider placement of AEDs through the police department; and
- Placement of AEDs in MUNI and BART transit vehicles.

## **Appendix A - Locations Recognized by Researchers as Being of High Cardiac Arrest Incidence<sup>14</sup>**

Airports  
Businesses  
County jails  
Dialysis centers  
Gaming establishments  
Golf courses  
Homeless shelters  
Hospitals  
Industrial sites  
Nursing homes  
Physician offices  
Shopping malls  
Sports complexes  
Streets and highways  
Trains and ferries

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<sup>14</sup> National Center for Early Defibrillation

## Appendix B – Federal policies regarding AEDs

The federal government has enacted a number of policies that address AEDs. These policies regulate their manufacture, require federal buildings to site AEDs, require commercial airlines to site AEDs, and provide funding to urban and rural communities of limited resources to purchase AEDs and train non-medical personnel in their use.

According to the National Center for Early Defibrillation, the Federal Cardiac Arrest Survival Act (CASA) (HR 2498, 2000) directed the Department of Health and Human Services to develop guidelines for PAD programs in federal facilities. The “Guidelines for Public Access Defibrillation Programs in Federal Facilities” provide guidance on where to place AEDs and suggest procedures for training, maintenance and testing, medical oversight, and coordination with local emergency responders. CASA also provides Good Samaritan liability protection to AED owners, users, trainers, and prescribing physicians.

The Rural Access to Emergency Devices Act (public law 106-505) authorized federal funds to help rural communities purchase AEDs and train lay rescuers. The Community Access to Emergency Defibrillation Act (public law 107-188, 2001) is an urban counterpart that provides limited funding (\$50M in 2001) for local government agencies to establish PAD programs.

The Airline Passenger Safety Act (1998) required that the Federal Aviation Administration (FAA) review the required contents of medical kits carried on commercial airlines. As a result, the FAA established a rule requiring that commercial airline carriers provide AEDs by 2004 and train flight crews.

Because AEDs are medical devices, the Food and Drug Administration oversees their manufacture, and also determines, along with state level regulators, who can use AEDs and how they can be used.<sup>15</sup>

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<sup>15</sup> National Center for Early Defibrillation

## **Appendix C – American Heart Association PAD Program Legal Issues Factsheet**

## Additional Information

# PAD Program Legal Issues



### State Laws Supporting Public Access Defibrillation

There have been no known lawsuits against lay rescuers providing CPR as Good Samaritans, nor any against AED users. However, the perceived potential for a suit against a lay rescuer using an AED has in some cases been a deterrent for companies or organizations considering establishing a public access defibrillation (PAD) program.

It's recommended that you check the laws in your state to determine any specific elements that may apply to your situation. Laws can often be researched via state Web sites. See [www.csg.org](http://www.csg.org) for a list of states' Web sites. The state EMS Department (usually part of the State Health Department) can also provide information.

The Cardiac Arrest Survival Act (CASA) was part of the Public Health Improvement Act signed into law in November 2000. The law directs placing automated external defibrillators (AEDs) in federal buildings and provides nationwide Good Samaritan protection that exempts from liability anyone who renders emergency treatment with a defibrillator to save someone's life.

Below is a thumbnail sketch of the two primary areas of CASA.

#### 1. Extending Good Samaritan Protections:

CASA provides limited immunity to persons using the AED and the acquirer of the AED. It does not include limited immunity for the prescribing physician and the trainer.

- The limited immunity provision in CASA is a "gap filling" measure and does not supercede any existing state law that provides immunity for categories of people using AEDs.
- The limited immunity provision for the AED acquirer will benefit approximately 11 states and the District of Columbia. (It applies to

these states because their current state law does not provide limited immunity for the acquirer.)

- The limited immunity provision for the user of the AED will benefit Maine and the District of Columbia. (Maine and D.C. do not have legislation that offers limited immunity to the user of the AED.)
- The limited immunity provided in CASA extends to private, public and federal settings.

#### 2. Placement of AEDs in Federal Buildings:

CASA calls for placement of AEDs in federal buildings. This is not a mandate, but rather a strong recommendation. CASA also calls for the development of implementation procedures and guidelines for AEDs in federal buildings.

### Assessing Your Legal Risk

When considering the establishment of a PAD program, it's important for a company or organization to consult its own legal advisors. However, the following information should be taken into account:

- Cardiac arrest victims are essentially already dead. They lose consciousness, have no pulse and stop breathing in a matter of only a few moments. Most often the heart's rhythmic contractions become ineffective, chaotic spasms so the heart can't pump blood to the brain and the rest of the body. The only thing that can change this condition is defibrillation. Using an AED can only help, not harm.
- Modern AEDs are safe and easy to use. The internal computer uses a system of analysis algorithms to determine whether to shock. The AED will make the correct "shock" decision 90 out of 100 times and a correct "no shock indicated" decision more than 95 out of 100 times. This level of accuracy is greater than that of trained emergency medical professionals.

- To successfully sue an AED user or purchaser, four essential elements must be proven. These include duty, breach of duty, causation of injury and legally recognized damages. (Lazar, RA. Defibrillators Enter the Business Marketplace. *Occupational Health & Safety*. August, 1997). Common carriers (such as airlines, cruise ships, etc.), innkeepers, hotel and motel operators and commercial establishments open to the public do have special responsibilities defined by law to provide a minimum of care and summon medical assistance.
- Training targeted rescuers in the AHA's Heartsaver AED course provides the essential knowledge of how to do CPR and use an AED. The course also has instruction on minimizing risks to the user and victim in unusual cases (such as when the victim is lying in a pool of water, has an implantable defibrillator or is on a metal surface).
- Most AED manufacturers offer some type of insurance to purchasers of their devices.

For companies and organizations considering having AEDs on site, a good offense may be the best defense. Implementing a public access defibrillation program that includes training lay rescuers in CPR and AED use, physician oversight, integrating with the EMS system and maintaining the AEDs according to the manufacturer's specifications establishes an intent to provide a safe and effective response to cardiac emergency.

## A Changing Trend

As awareness of the new generation of AEDs grows, companies and organizations may face greater threat of liability if they aren't properly prepared to respond in a timely manner to a cardiac emergency. This trend can be seen in three cases in which lawsuits were filed against companies that weren't prepared. In 1996 Busch Gardens was found negligent for not being prepared and equipped (including not having a defibrillator) to respond to the cardiac arrest of a 13-year-old guest. Lufthansa Airlines was also found negligent because it failed to provide appropriate treatment to a passenger who suffered a cardiac arrest. A similar lawsuit against United Airlines is now pending.





**Appendix D – AEDs Registered with the San Francisco Department of Public Health,  
Emergency Medical Services Section**

SAN FRANCISCO PUBLIC ACCESS DEFIBRILLATION SITE LISTINGS  
REPORTED TO EMSEOS AS OF 9/23/2004

	Organization	Address	Exact Location
1	Cowan and Company	4 Embarcadero	at security desk
2	Meyer Friedman Institute	77 Beale Street	b1 basement level, 1 @ 16th floor at 245 market, 1 @ central control station at 245 market in lobby
3	Ninth Circuit Court of Appeals	95 Seventh Street	7th and Mission (court security officer monitoring station, near main interance)
4	Olympic Club--Downtown	One Embarcadero	S2020
5	Olympic Club--Lakeside	599 Skyline Blvd	
6	Otsuka American	55 Francisco #500	
7	Pacific Fertility Med	1515 Scott St. #2	
8	Pacific Gas and Electric	77 Beale	at b1 basement level, 1 @ 16th floor at 245 market, 1 @ central control station at 245 market in lobby
9	Transamerica Title	600 Montgomery	48th floor, 47th floor, 26th floor, 24th floor, 16th floor, gymnasium, corporate jet, basement at 505 Sansome
10	Trinity Capital Corporation	475 Sansome Street	
11	San Francisco International Airport	SFO	Various locations throughout the terminals
12	SF National Maritime Museum	900 Beach Street	Multipurpose building--Ranger office
13	Concordia-Argonaut Health Club	1142 Van Ness Ave	
14	California Tennis Club	1770 Scott Street	
15	Club 1015	1015 Folsom Street	EMT Room--Back of Club near alley door
16	Jewish Home	302 Silver Avenue	
17	The Pacific Union Club	1000 California Street	Front Office on the Main Floor
18	Unico	100 Pine Street	Suite 775 at the front desk
19	345 California	345 California 35th floor	Reception Desk Lobby
20	Bill Graham Civic Auditorium	100 block of Grove Street	First Floor Reception Area
21	Moscone Center	Howard between 3rd and 4th Streets	1. South first aid office (room 109); 2. North first aid office (room 139); 3. Esplanade first aid office (room 313); 4. Security Control Room
22	Stonestown Galleria	3251 20th Avenue	1. Center Court Lower Level; 2. Center Court Upper Level; Mobile Security Vehicle
23	San Francisco Shopping Centre	865 Market St.	1. Concourse Level: wall next to concourse restroom/elevator approach; 2. Level One: wall of elevator approach left of Security Stairwell/mezzanine door; 3. Level Three: Wall of elevator approach next to pay phones; 4. Level Eight: Mgmt Off reception area
24	Pacific Bell Park	24 Willie Mays Plaza	see file-22 mounted; 2 recessed

SAN FRANCISCO PUBLIC ACCESS DEFIBRILLATION SITE LISTINGS  
REPORTED TO EMSEOS AS OF 9/23/2004

	Organization	Address	Exact Location
25	American Conservatory Theatre	415 Geary	House Manager's Closet
26	GAO	301 Howard St.	
27	Emergency Medical Services Agency	68 12th St. #220	Second floor; suite 220; in reception area on file cabinets
28	Federal Reserve Bank	101 Market Street	#1 First flr near conf room; #2 4th flr at cafeteria base
29	Haight Ashbury Free Clinic	558 Clayton St.	
30	War Memorial & Performing Arts Center	201 Van Ness, Louise M. Davis Symphony Hall	201 Van Ness, Louise M. Davies Symphony Hall, Nurse Station. Only during performances
31	Pacific Gas & Electric	245 Market St.	
32	Pier 39	Business Offices of Pier 39	
33	San Francisco Golf Club	Brotherhood Way and Junipero Serra Blvd	#1-Mens Locker Room 1st Floor; #2-Pro shop
34	San Francisco State University	1600 Holloway Avenue	
35	Taraval Police Station	2345 24th Avenue	
36	War Memorial & Performing Arts Center	401 Van Ness Avenue	Veterans Building, Ground Floor, Suite 110 8:30-5pm & evening performances, First Aid Closet
37	EPA	75 Hawthorne	75 Hawthorne: Floors- 1 (Security Office), 7, 9, 11, 13, 15, 17, 19 (near the restrooms), & 95 Hawthorne 2nd Floor (Fitness Center)
38	American Heart Association	120 Montgomery Street Suite 1650	On wall behind reception desk
39	NASD	525 Market Street Suite 300 94105	Center Column, Open Cube sitting area
40	YMCA-Presidio Letterman Pool Building 1151	P.O. Box 29911 1151 Gorgas Ave, Presidio of San Francisco	Front Lobby
41	YMCA-Presidio Main Post Gym Bldg 63	YMCA Corner of Funston and Lincoln	Wall mounted cabinet located in the fitness center-main workout room.
42	YMCA-Richmond District	360-18th Avenue	Behind front member service desk on first floor; next to door leading to back office.
43	Morgan Stanley	555 California Suite 2200	
44	Marine's Memorial	609 Sutter street	
45	YMCA-Stonestown	333 Eucalyptus Drive	first floor main building front desk; #2 Senior Annex 3150 20th Ave 94132
46	San Francisco Sheriff's Dept Training Center	120 14th Street	120-14th Street first floor reception

SAN FRANCISCO PUBLIC ACCESS DEFIBRILLATION SITE LISTINGS  
REPORTED TO EMSEOS AS OF 9/23/2004

	Organization	Address	Exact Location
47	Presidio Golf Club	8 Presidio Terrace San Francisco	first floor service area next to oxygen
48	Congregation Beth Sholom	1301 Clement Street	In coat closet halfway up North stairs leading from ground floor to sanctuary in the main synagogue building
49	YMCA--Embarcadero	169 Steuart Street	Second Floor Elevator Waiting Area, Third Floor Wellness Office
50	YMCA-Mission	4080 Mission Steet	Main Floor Lobby across from Branch Office
51	UCSF Milberry Union Fitness Center	500 Parnassus Ave. "I" level East	500 Parnassus, Milberry Union Building, Level I (one floor below Parnassus street level), East side of building, in Lobby Entrance to Fitness Center, located below Fitness Center check-in desk
52	California Palace Of The Legion Of Honor	Lincoln Park	100 34th Avenue, Terrace Level-in wall cabinet near north glass terrace by museums store
53	Federal Deposit Insurance Corporation	25 Ecker Street	25 Ecker Street
54	Congregation Emanu-El	2 Lake Street	2 Lake Street/Arguello Blvd
55	U.S. Mint	155 Hermann Street	155 Hermann Street
56	TIS Financial Services Co.	655 Montgomery St	655 Montgomery Building, 8th Floor, Suite 800
57	GSA San Francisco	450 Golden Gate Ave, 7th Flr, E	450 Golden Gate Ave, 7th Flr, E./Nearest Larkin St and closest Turk St
58	San Francisco Tennis Club	645 5th St	645 5th Street
59	War Memorial & Performing Arts Center	301 Van Ness, Opera House	301 Van Ness, Opera House, Nurse Station Lower Lounge/Restaurant Area. Only during performances
60	Dept of Treasury	390 Main Street, 5th Floor	5th Floor
61	Golden Gate Bridge Highway & Trans Dist	1011 Anderson Dr, San Rafael, CA	Steering House on all GG Ferry Commute Boats
62	Delta Dental	100 1st St, MS/40	Floors: 3rd hallway east elev. Lobby: 4th-5th floor inner lobby north of elev; 7th-14th Floor inner lobby; 15th Adj. South bldg fire stairwell.
63	AMH Property Corporation	Pier 1, Bay 1, Embarcadero	Outside downstairs and upstairs restrooms
64	Citadel Group	Spear Tower, One Market Plaza-38th Floor	#1 on 38th Flr in storage closet in kitchen area; #2 37th Flr in storage closet in kitchen area

SAN FRANCISCO PUBLIC ACCESS DEFIBRILLATION SITE LISTINGS  
REPORTED TO EMSEOS AS OF 9/23/2004

	Organization	Address	Exact Location
65	Internal Revenue Service-Dept of Treasury	450 Golden Gate Ave	#1 1st Floor, Rm 5403; #2 6th Floor, Hallway across from rm 0127; #3 7th Floor between rms 2521-2677; #4 Health Unit 2nd Floor
66	Internal Revenue Service-Dept of Treasury	333 Market Street	Suite 1400
67	US Dept Treasury	333 Market Street	Suite 275 in the kitchen
68	Opera Plaza HOA	601 Van Ness, #2045	First Floor Security Council
69	Bureau of Construction Management	1680 Mission St	1st Floor, Carmen Ynamis office, 1st bottom cabinet, left of glibrators; 4th Flr in Don Eng's office on shelf behind Desk
70	Bureau of Construction Management	2099 Kearny St	2nd Floor, Materials Testing Lab, central north cubicle, upper left shelf
71	Bureau of Construction Management	Golden Gate Park Field Office	Behind Angler's Lodge in file cabinet near microwave
72	Federal Reserve Bank	101 Market Street	1st Floor near conference room; 4th Floor at cafeteria, basement exercise facility
73	American Heart Association	120 Montgomery St	Suite 1650 on wall in middle of office and one in closet behind reception desk
74	Lady Shaw Senior Center	1483 Mason Street	1483 Mason Street, I/F Office B
75	San Francisco County Jail #1 and #2	850 Bryant Street, Hall of Justice	850 Bryant Street, Hall of Justice: # is on 6th Flr, attached to mandown bag, male clinic in the closet; #2 on 7th Flr attached to mandown bag, male clinic in closet
76	San Francisco County Jail #3 and #7	1 Moreland Drive, San Bruno	Jail #3 & Jail #7 2nd Floor, Attached to mandown bag, main clinic
77	San Francisco County Jail #8 and #9	425 7th Street	Attached to mandown bags on: 2nd Flr2-South; 2nd Flr-C Pod lower; 4th Flr-F POD; 1st Flr treatment Room
78	SFFD Headquarters	698 Second Street	#1: Second Floor, Chief's Office, Reception Area; #2 Dept. Physicians Office
79	SF City Hall	1 Dr. Carlton B. Goodlett Place	Security Control Room
80	Gold's Gym	2301 Market Street	Across Front Desk
81	Golds Gym	1001 Brannan St	Across Front Desk
82	USPHS-Federal Occupational Health	450 Golden Gate Avenue, Suite 4284	Health Unit Z1B
83	USPHS-Federal Occupational Health	50 United Nations Plaza	Health Unit Z1E
84	USPHS-Federal Occupational Health	630 Sansome	Health Unit Z1D
85	USPHS-Federal Occupational Health	333 Market St, Rm 975	USACE Fitness Center B23

SAN FRANCISCO PUBLIC ACCESS DEFIBRILLATION SITE LISTINGS  
REPORTED TO EMSEOS AS OF 9/23/2004

	Organization	Address	Exact Location
86	Moscone Center	Howard between Third and Forth Streets	#1: South First Aid Office (Rm 109) servcies Hall A,B,C and the South Lower Lobby Area; Floors 1 and 3, Esplanade
87	Internal Revenue Service-Dept of Treasury	160 Spear Street, Suite 800	Suite 800
88	Chinese Chamber of Commerce	730 Sacramento St	2nd Floor, Library Room
89	Levi Strauss World Headquarters	1155 Battery St	All located at 1st floor security consoles
90	PM Realty Group	100 First Street, #120	2nd Floor Security Console, Mission Street or First Street
91	Practising Law Institute	685 Market St, #100	Monadnock Building Basement, 3rd st or Annie st entrance
92	ABM Industries Inc	160 Pacific Ave, #222	160 Pacific Ave, 2nd Floor, Ste 222 inside rear entrance, 75 Broadway
93	Lehman Brothers	555 California St, 30th Floor, San Francisco	555 California St via Concourse level & Montgomery St 30th floor & 41st floor
94	Bayview Hunter's Point YMCA	1601 Lane St	2nd Floor Main entrance (lane & quesada) next to the fire hose box
95	PM Realty Group	333 Bush St, #2010	1st Floor Lobby - Secyrity Console, Ste 2010, cross Montgomery St
96	Gerson Bakar & Associates	201 Filbert St, #700	7th Floor, 201 Filbert St
97	Gurdjieff Foundation of California Inc.	3119 20th St	Ground floor, 3119 20th St
98	California Palace of Legion of Honor	100 34th Street	Lower Level Floor (Terrace Level)/Coat Check Room/Near Public Pay Phone (Accessible to public).
99	Ernst & Young	555 California Street	17th Floor (SC-1730); 16th Floor (SC 16-255), 18th floor
100	National Highway and Transportation Administration	201 Mission Street, Suite 2230	Storage File Room Right Wall Center
101	Marsh and McLennan	160 Spear Street, suite 1620	Reception
102	Marsh and McLennan	1 California Street	8th, 9th, 10th & 18th Floors in copy room by kitchen; 5th floor lunch room; 6th floor reception; 7th floor copy room
103	Marsh and McLennan	3 Embarcadero Cntr, Suite 1500	14th Floor and 15th Floor first aid closets
104	Marsh and McLennan	3 Embarcadero Cntr, Floor 2	2nd Floor lunch room and 3rd Fir Wellness room
105	Marsh and McLennan	160 Spear Street, 15th Floor	15th Floor Mail room and Reception



# Appendix E – California Jurisdictions that have Placed AEDs in Public Locations<sup>16</sup>

Jurisdiction	# of AEDs	Locations	Funding
Anaheim	50	Community centers, convention center, golf courses, police stations, and various city offices	General fund and individual agency budgets
California (Department of General Services)	>1,200 buildings	State office buildings	Individual agency budgets
Gilroy	4	City Hall, maintenance yard, public assembly building, and senior center	Fire department's capital outlay budget
Los Angeles (City)	600+	Airport, city office buildings, community centers, convention center, Department of Water and Power facilities, golf courses, harbor, parks, swimming pools, and zoo	General fund
Malibu	6	Unknown	Sale to public of emergency access decals
Marin (County)	18	Civic Center, Department of Health and Human Services sites, and performing arts center	General fund
Menlo Park Fire District	6	Various public buildings	Public funds with private donation match
Newark	8	City Hall, community center, fire administration offices, library, recreation/swim center, and senior center	Emergency Medical Services funds
Oakland	9	City Hall and other city buildings	Federal grant to fire department
Redwood City	21	City buildings	Capital improvement project account
San Diego (County)	550	Various locations throughout County	Various sources including Councilmember discretionary funds, individual agency budgets, general fund, private donation, and tobacco tax

<sup>16</sup> Information gathered through communication with agency staff and online resources.

Jurisdiction	# of AEDs	Locations	Funding
San Jose	45	Airport, City Hall, civic center, convention center, parks, performing arts center, senior centers, skating rink, and swim center	Mayor's discretionary fund and airport budget
San Rafael	6	City Hall, high schools, and recreation centers	Private donation
San Ramon Valley Fire District	Approx. 10	Community centers, high schools, libraries, and senior centers	Private donation and local measure funds for paramedic enhancement
Santa Maria	3	Unknown	Private donation
Sunnyvale	26	Various city buildings	Unknown
Temecula	6	City Hall, maintenance yard, pool, recreation center, and senior center	General fund

## Appendix F - City of Los Angeles Motion Preparing for the Rollout of the PAD Program

### File Number

99-0186

### Last Changed Date

5/21/2002

### Title

DEFIBRILLATORS AND TRAINING

### Initiated By

Svorinich, Jr. Mover 1999 / Chick

### Subject

Motion - According to the American Heart Association, approximately 350,000 people a year are stricken with sudden cardiac arrest. The arrest is caused when the heart spontaneously starts to quiver as the result of the normal electrical pulse going out of control. When the arrest occurs the only effective way of treating the heart is with an electric shock. What is important to note is that for every minute that the heart quivers rather than beats regularly, the chance to survive diminishes ten percent.

Statistics show that only 5% of sudden cardiac arrest victims survive and in large cities where it can take several minutes for a paramedic ambulance to arrive at the scene every minute can count. A recent article in U.S. News and World Report stated that fewer than 2 out of 100 persons survive cardiac arrest in New York City.

However, new and relatively inexpensive technology is now available to increase the chances of persons surviving a sudden cardiac arrest if deployed strategically. Now available on the market are small, automated external defibrillators which can be utilized with a minimum amount of training to the operator. The instrument is available through various distributors for approximately \$3,000 and is relatively easy to use. Recent statistics have shown a survival rate as high as 7 out of 10 when the defibrillator was deployed in an emergency situation.

THEREFORE MOVE that the Fire Department, with the assistance of the City Administrative Officer (CAO) and City Legislative Analyst (CLA), report back to the Council's Public Safety Committee within 45 days on the feasibility of deploying automated defibrillators strategically at city facilities where the public gathers frequently and a plan to train city personnel is in use.

FURTHER MOVE that the City Attorney be requested to report on any potential city liability that could be incurred by trained city staff deploying such a device in an attempt to save a life, whether successful or not.

FURTHER MOVE that the City Administrative Officer (CAO) and City Legislative Analyst (CLA) make contingent preparations to include funding for these devices for citywide distribution in the 1999-2000 city budget - all other issues having been addressed - by the time budget deliberations begin in May 1999.

### Date Received

2/2/1999

### File History

2-2-99 - This days Council session

2-2-99 - File to Calendar Clerk for placement on next available Council agenda

2-9-99 - CONTINUED TO February 10, 1999

2-10-99 - Motion ADOPTED

2-16-99 - File in files

2-22-99 - File to Public Safety Committee Clerk

7-19-99 - City Administrative Officer (CAO) 0220-03458-0000 report received re: Bicycle Medic Program - to Public Safety Committee Clerk

9-14-99 - City Administrative Officer (CAO) 1000-00001 report received re: Request for the Emergency Operations Board (EOB) to coordinate a Citywide Automated External Defibrillator Implementation Plan - to Public Safety Committee Clerk.

9-15-99 - Los Angeles Fire Department (LAFD) report received re: Bicycle Medic Program - to Public Safety Committee Clerk

11-16-99 - No Quorum

11-17-99 - Public Safety Committee report ADOPTED to:

a. Coordinate the establishment of, and convene an AED Implementation Task Force consisting of representatives

of the Fire, Personnel, Police, Zoo, and Library Departments; the Departments of Aging, Airports, General Services, and Recreation and Parks; the Los Angeles Convention Center; other City departments as necessary; the American Red Cross; and, the American Heart Association to evaluate the feasibility of specific Automated External Defibrillator (AED) programs, such as deploying bicycle Automated External Defibrillators (AEDs) at major public events.

b. Report back to the Public Safety Committee in 45-60 days with a detailed Automated External Defibrillator (AED) deployment cost analysis and with recommendations for implementation, funding, and pilot programs.

11-24-99 - File to Public Safety Committee Clerk OK

11-30-99 - File in files

2-24-00 - For ref - City Administrative Officer (CAO) 0220-03458-0001 - Request Council approve formation of an Automated External Defibrillator (AED) Implementation Task Force. .

2-25-00 - Ref to Public Safety, Budget and Finance and Personnel Committees

2-25-00 - File to Public Safety Committee Clerk

3-14-00 - File to Budget and Finance Committee Clerk per Public Safety Committee Clerk request

5-15-00 - RECEIVED and FILED

5-23-00 - File to Public Safety Committee Clerk OK

5-25-00 - File in files

10-3-00 - File to M.Gonzales-Kimbrough - City Attorney -x57112

10-23-00 - File in files





OLA#:025-04

## LEGISLATIVE ANALYST REPORT

DOCUMENTS DEPT.

DEC 20 2004

SAN FRANCISCO  
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TO: Honorable Members of the Board of Supervisors  
FROM: Gabe Cabrera, Office of the Legislative Analyst (OLA)  
DATE: December 17, 2004  
RE: **Local Control of Speed Limits on States Highways (File No. 041268)**

### SUMMARY OF REQUESTED ACTION

Motion (sponsored by Supervisor Elsbernd) requesting the OLA to investigate to what extent California law allows localities to determine speed limits, construct bulb-outs, etc. on state highways. This motion also requests that the OLA compare California's policies with those of Oregon, where, for example, localities are given the authority to set speed limits on state highways.

Further clarification with the Supervisor's aides indicated that the Supervisor wished to explore the feasibility of changing the speed limit on the section of State Highway 1 that passes through San Francisco (also known as 19<sup>th</sup> Avenue).

### EXECUTIVE SUMMARY

#### Findings

1. California law does not allow local governments to establish or change speed limits on state highways. These limits are set by statute or established and changed by the California Department of Transportation (Caltrans) on the basis of engineering and traffic surveys.
2. Engineering and traffic surveys are performed by Caltrans about once every 5 to 7 years, but a local government may ask for one at any time.
3. If Caltrans proposes, on the basis of an engineering and traffic survey, to change a speed limit, it must first consult with the California Highway Patrol (CHP) and a local government may conduct a public hearing on the proposed change. Caltrans must then consider the results of this hearing prior to determining the speed limit.
4. The last survey of 19<sup>th</sup> Avenue was completed in 2001 and recommended that the existing 35-mph speed limit be retained. Caltrans advised us that a new survey is unlikely to justify a speed limit change because traffic conditions on 19<sup>th</sup> Avenue have not changed substantially since the last survey.
5. Like California law, Oregon law does not allow local governments to establish or change speed limits on state highways. Limits are set by statute or established and changed by the Oregon Department of Transportation (ODOT) on the basis of engineering and traffic investigations.



6. Local governments in Oregon may ask for an engineering and traffic investigation at any time.
7. Unlike California law, Oregon law requires that ODOT and a local government mutually agree to any proposed change to a speed limit on a state highway that passes through a local jurisdiction. If mutual agreement cannot be reached, the matter is referred to an independent review panel for a final decision.

### **Recommendations**

- Ask Caltrans to construct bulbouts or other traffic calming measures on 19<sup>th</sup> Avenue.
- Ask DPT, Public Works and other City departments to develop a street design plan for 19<sup>th</sup> Avenue that involves the community, advocacy groups, Caltrans and other stakeholders, and that includes visual cues along the roadway to alert drivers to slow down and expect pedestrians, including but not limited to trees, planters, landscaping, ornamental lighting, flags, benches and other street furniture.

### **BACKGROUND**

#### **Caltrans**

Caltrans is responsible for the design, construction, maintenance and operation of the State Highway System. Caltrans has 12 District offices throughout the state, including one in Oakland, which serves Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma counties. This office is known as the District 4 office.

#### **19<sup>th</sup> Avenue Traffic Accident Data**

Table 1 shows the total number of traffic accidents and related injuries and fatalities on 19<sup>th</sup> Avenue for the 3-year period from January 2001 to December 2003. The data includes but does not isolate accidents that were vehicle/pedestrian related.

Table 1 <sup>1</sup>				
Segment of 19 <sup>th</sup> Avenue	Miles	Accidents	Injuries	Fatalities
• Junipero Serra Boulevard to Sloat Boulevard	1.2	91	74	1
• Sloat Boulevard to Martin Luther King Jr. Drive	2.2	157	119	3
• Martin Luther King Jr. Drive to Lake Street	1.8	156	132	1
• Lake Street to Doyle Drive	1.2	53	17	0
<b>Total</b>	<b>6.4</b>	<b>457</b>	<b>342</b>	<b>5</b>

<sup>1</sup> Data provided by Caltrans District 4 Office.

Table 2 compares traffic accident/injury/fatality data on all of 19<sup>th</sup> Avenue and two sections of State Highway 101 that pass through San Francisco for the same 3-year period.

State Highway in San Francisco	Miles	Table 2		
		Accidents	Injuries	Fatalities
• 19 <sup>th</sup> Avenue from Junipero Serra Boulevard to Doyle Drive	6.4	457	342	5
• Van Ness Avenue from Golden Gate Avenue to Lombard Street	1.4	197	158	5
• Lombard Street from Van Ness Avenue to Richardson Street	1.1	112	91	1

### AB 2568

AB 2568, which the State Senate Committee on Public Safety failed to pass on June 29, 2004, would have designated 19<sup>th</sup> Avenue between Junipero Serra Boulevard and Lake Street as a “Safety Enhancement Double Fine Zone” (DFZ) until January 1, 2006.<sup>2</sup> The bill sponsor’s aides advised the OLA that AB 2568 was not moved out of committee largely because Caltrans previously concluded that “...the use of double fine zones reduced collisions somewhat but the reductions were not statistically significant.”<sup>3</sup> Notably, 13 of 14 other DFZs throughout the state expired on January 1, 2004 and have not been renewed by the Legislature.

## CURRENT LAW AND PRACTICE

### Speed Limits

There are two basic speed limits on California highways. Both are listed in the State Vehicle Code, Sections 22348–22366, as follows:

1. Basic speed law limit – Section 22350 states that no person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at the speed which endangers the safety of persons or property.
2. Prima facie speed limits – These are set by statute or established by Caltrans in the Vehicle Code on the basis of engineering and traffic surveys. Section 22352 is a list of existing prima facie speed limits.

The basic speed limit law preempts the prima facie speed limits when the conditions in Section 22350 are met.

### Minimal Local Control

California law does not allow local governments to establish or change speed limits on state highways. Only a Caltrans District Director, through the Caltrans Director, is authorized to do so on the basis of engineering and traffic surveys. These surveys are performed by Caltrans about once every 5 to 7 years, but local governments may ask for one at any time. If a District Director

<sup>2</sup> The purpose of the DFZ program is to improve traffic safety by doubling or otherwise enhancing fines for certain traffic violations if committed within a DFZ.

<sup>3</sup> Cited in the Assembly Floor Analysis Unit report to the Senate Committee on Public Safety, June 29, 2004.

proposes, on the basis of an engineering and traffic survey, to change a speed limit, he/she must first consult with and consider the recommendations of the CHP and a local government may conduct a public hearing on the proposed change (Vehicle Code Section 22354.4). The District Director must then consider the results of this hearing prior to determining the speed limit.

### THE STATE OF OREGON

#### **Speed Limits**

There are three basic speed limits on Oregon highways. They are listed in the Oregon Revised Statutes (ORS) 810.180 et seq. and 180.100 et seq., as follows:

- Designated speed – The maximum speed designated by the Oregon Department of Transportation (ODOT) for a highway, which may be different from the statutory speed for the highway. (ORS 810.180)
- Statutory speed – The maximum speed set by statute under ORS 811.111 (for example, 15 mph when driving on an alley, 25 mph in a public park, etc.) or which is prima facie evidence of violation of the basic speed rule.
- Basic speed rule – A person commits the offense of violating the basic speed rule if the person drives a vehicle upon a highway at a speed greater than is reasonable or prudent, having due regard for traffic, the surface and width of the highway, hazards at intersections, weather, visibility and any other existing conditions. (ORS 811.100)

Designated speed overrides statutory speed, and the basic speed rule overrides both designated and statutory speeds.

#### **More Local Participation**

ODOT establishes a “designated speed” for a highway if an engineering and traffic investigation indicates that the “statutory speed” for the highway is greater or less than is reasonable or safe. A local authority may file a written application to the State Traffic Engineer for ODOT to conduct such an investigation. This application must state a recommended designated speed. ODOT either conducts the investigation itself or allows the local authority to do it. Whoever conducts the investigation, ODOT must allow the local authority to participate. If the investigation establishes that the existing speed is greater or less than reasonable or safe, ODOT proposes a change to the speed. The proposed speed must be mutually agreeable to ODOT and the local authority. If mutual agreement cannot be reached, the matter is referred to the Speed Zone Review Panel for a final decision.<sup>4</sup>

### OTHER TRAFFIC CALMING MEASURES

#### **Types of Traffic Calming Measures**

The Federal Highway Administration recognizes four (4) major types of traffic calming measures:

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<sup>4</sup> The Speed Zone Review Panel consists of representatives from 1) the Oregon State Police, 2) the Oregon Transportation Safety Committee, 3) the League of Oregon Cities, 4) the Association of Oregon Counties and 5) ODOT.

1. Vertical deflections
  - Speed humps – Rounded raised pavement devices placed across roadways to slow and/or discourage traffic
  - Speed tables/raised intersections – Flat-topped speed humps often constructed with a brick or other textured material to slow traffic
2. Horizontal shifts
  - Traffic circles – Barriers placed in the middle of an intersection, directing all traffic in the same direction
  - Chicanes/lateral shifts – Curb extensions that alternate from one side of the roadway to the other, forming s-shaped curves
3. Roadway narrowings
  - Bulbouts/neckdowns/chokers – Curb extensions at intersections that reduce curb-to-curb roadway travel lane widths
  - Center islands – Raised islands located along the centerline of a roadway that narrow the width at that location
4. Closures
  - Closures/cul-de-sacs - Barriers places across roadways to completely close through vehicle traffic

#### **Traffic Calming Measures and 19<sup>th</sup> Avenue**

Caltrans points out that 19<sup>th</sup> Avenue serves as a “major traffic artery” between the Peninsula Corridor and Marin County, averaging 65,000 to 95,000 vehicles per day, and as a matter of policy, it will not install speed humps (vertical deflections) on major traffic arteries. Nor will it convert 19<sup>th</sup> Avenue from 4 to 3 lanes with a center turn lane (horizontal shifts) because left turns are already illegal on 19<sup>th</sup> Avenue. Caltrans considered installing bulbouts (roadway narrowings), but eventually dropped the idea because bulbouts may reduce turning radii for large vehicles, especially Fire Department engines. Caltrans advised the Legislative Analyst that it is still open to the idea of bulbouts provided that they accommodate large vehicles and funding becomes available in the future.

In an effort to reduce red-light running and improve pedestrian safety, Caltrans plans to replace existing traffic light signals with mast-arm (overhead) signals and to install pedestrian countdown signals at 12 intersections along 19<sup>th</sup> Avenue. Caltrans will begin construction on this project in June 2005, and plans to install similar mast-arm and countdown signals at 22 other intersections along 19<sup>th</sup> Avenue when funding becomes available in the future.

The City has also taken steps to reduce red-light running and improve pedestrian safety. For instance, DPT (in collaboration with Caltrans and two private organizations) recently installed red-light cameras at 2 intersections on 19<sup>th</sup> Avenue. DPT states that red-light cameras have reduced red-light running at other intersections in San Francisco. The City and Caltrans also plan to install speed radar signs at each end of 19<sup>th</sup> Avenue that will inform drivers of their vehicle speeds and thus compel them to slow down. Because the San Francisco Police Department (not the CHP) is responsible for traffic enforcement on 19<sup>th</sup> Avenue, the City may legally use this radar equipment.

Apart from the above-noted actions and plans, the Legislative Analyst believes that the City should ask DPT, DPW and other City departments to develop a street design plan for 19<sup>th</sup> Avenue that involves the community, advocacy groups, Caltrans and other stakeholders and includes visual cues along the roadway to alert drivers to slow down and expect pedestrians. Visual cues are trees, planters, landscaping, ornamental lighting, flags, benches and other street furniture. Typically, visual cues are built in downtown areas where streets are narrow and lined with businesses, whereas the majority of 19<sup>th</sup> Avenue is broad and bordered by residences. Therefore, if the City chooses to implement this strategy, it would have to adapt these cues to meet the special circumstances along 19<sup>th</sup> Avenue.

### CONCLUSION

In summary, neither California nor Oregon allows local governments to set or change speed limits on state highways. State transportation agencies are solely responsible for these tasks on the basis of engineering and traffic surveys. A new Caltrans survey of 19<sup>th</sup> Avenue is unlikely to justify a speed limit change because traffic conditions on 19<sup>th</sup> Avenue have not changed substantially since the last survey. From this perspective, the Legislative Analyst recommends the following options:

- Ask Caltrans to construct bulbouts or other traffic calming measures on 19<sup>th</sup> Avenue.
- Ask DPT, Public Works and other City departments to develop a street design plan for 19<sup>th</sup> Avenue that involves the community, advocacy groups, Caltrans and other stakeholders, and that includes visual cues along the roadway to alert drivers to slow down and expect pedestrians, including but not limited to trees, planters, landscaping, ornamental lighting, flags, benches and other street furniture.

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